

S. 1503

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1503, a bill to extend and amend the Promoting Safe and Stable Families Program under subpart 2 of part B of title IV of the Social Security Act, to provide the Secretary of Health and Human Services with new authority to support programs mentoring children of incarcerated parents, to amend the Foster Care Independent Living Program under part E of title IV of the Social Security Act to provide for educational and training vouchers for youths aging out of foster care, and for other purposes.

S. 1562

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1562, a bill to amend title 39, United States Code, with respect to cooperative mailings.

S. 1571

At the request of Mr. LUGAR, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1571, a bill to provide for the continuation of agricultural programs through fiscal year 2006.

S. 1593

At the request of Mr. JEFFORDS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1593, a bill to authorize the Administrator of the Environmental Protection Agency to establish a grant program to support research projects on critical infrastructure protection for water supply systems, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales, use and retailers' occupation tax holiday.

S. 1646

At the request of Mr. BINGAMAN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1646, a bill to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

S. CON. RES. 44

At the request of Mr. STEVENS, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day.

S. 1705. A bill to amend the Public Health Service Act to provide for the establishment of a homeland security academic centers for public health preparedness network; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Mr. President, I rise today to introduce a bill I call the "The Homefront Medical Preparedness Act."

In the past century we have witnessed unprecedented advances in science, technology and medicine and have seen limitless potential to improve the human condition, cure disease, and advance human health in ways that were once unimaginable. Yet, at the same time we have seen some of these very advances have spawned new threats, threats that were simply inconceivable 100 years ago. The recent outbreaks of anthrax in Florida, New York City, and Washington, DC, coupled with the terrorist attack of September 11 have brought to light the compelling need to properly prepare our communities for the threat of bioterrorists attacks.

A strong public-health infrastructure is the best defense against any bioterrorism attack. As a Nation we remain highly vulnerable, not because we are unprepared, but because we are underprepared. The Department of Health and Human Services has made tremendous advances over the past few years. However, while significant progress has been made, there are still large gaps in our current approach. Our goal must be to eliminate these gaps and reduce the risk to our Nation and our communities. As a nation, we must prepare our communities, and improve our capacity to respond. Central to an effective response to a bioterrorist attack are detection, treatment and containment of a disease epidemic and our Nation's public-health system is on the front line in this effort.

The Nation's public health system is a complex network of people, systems, and organizations working at the local, State and national levels. The Nation is served by more than 3,000 county and city health departments, more than 3,000 local boards of health, 59 State and territorial-health departments, tribal-health departments more than 160,000 public and private laboratories. Current estimates suggest that the public-health workforce includes 500,000 professionals employed at the local, State and national levels. According to the Health Resource and Services Administration in 1989 only 44 percent of these 500,000 workers had formal, academic training in public health and those with graduate public health degrees were an even smaller fraction. As of 1997, 78 percent of local health departments executives did not have graduate degrees in public health. Changes on the public health system have brought new demands on the workforce and identified a need for additional training and education. Many public-health workers do not have the

necessary skills and knowledge base to meet the needs of the emerging public-health system and public-health threats. These statistics highlight the critical need to provide these professionals with the most up-to-date training, technology, and tools necessary to meet the increasing demands and emerging needs.

An important first step has already been taken. The Centers for Disease Control has created Centers for Public Health Preparedness across the country. There are currently 14 centers total: 7 Academic Centers, 4 Speciality Centers, and 3 Local Exemplar Centers. The Academic Centers link schools of public health, State and local-health agencies and other academic and community health partners to foster individual preparedness on the front line. The Speciality Centers focus on a topic, professional discipline, core public-health competency, practice setting or application of learning technology. And finally, the Local Exemplar Centers develop advanced applications at the community level in three areas of key importance to preparedness for bioterrorism and other urgent health threats: integrated communications and information systems across multiple sectors; advanced operational readiness assessment; and comprehensive training and evaluation.

In Missouri we are fortunate to have not one, but two centers in St. Louis at St. Louis University School of Public Health: an Academic Center the Heartland Center for Public Health Preparedness as well as a Speciality Center The Center for the Study of Bioterrorism and Emerging Threats. The School of Public Health at St. Louis University has clearly been on the forefront of this issue. I was honored to have secured Federal appropriations dollars necessary for startup costs for the Center for the Study of Bioterrorism, the only speciality center with a primary focus on bioterrorism in the country. The center provides public-healthcare providers and healthcare facilities with the tools needed for preparedness, response, recovery, and mitigation of intentional or naturally occurring outbreaks. Under the leadership of Dr. Evans, the center has developed training curriculum that is being used nationwide to train healthcare providers and public-health departments. In fact, the center's training materials were used by the CDC to train emergency health personal, healthcare providers and other public-health workers in New York to respond to the September 11 attack.

But more can and must be done. Today I introduced legislation which will expand the national network of Centers of Public Health Preparedness by adding new centers across the country as well as funneling more valuable resources to existing centers to meet urgent, public-health training needs. This bill will authorize \$50 million and would instruct the Director of the Centers for Disease Control to establish a

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

national network of Centers for Public Health Preparedness utilizing the existing Centers for Public Health Preparedness Program to train and to prepare the national public-health workforce, healthcare providers and the general public to respond to bioterrorist threats.

Each center, housed at an accredited school of public health will 1. provide training and education to local and state health department staff, emergency first responders, and primary and acute care providers on the best practices necessary to protect against, and respond to the array of potential threats facing the American public, including bioterrorism, infectious disease and weapons of mass destruction; 2. provide information to healthcare [providers and other components of the healthcare industry to protect against and respond to the threat of bioterrorism, infectious disease and weapons of mass destruction; and 3. provide information and education on relevant bioterrorist threats to the public.

Under my legislation each center, both new and existing, will receive at least \$1 million per year, but may receive additional sums per year if the CDC deems additional resources are necessary to carry out regional or national training activities at a particular center.

I believe that our schools of public health across the country, working in conjunction with the CDC can provide training and education to local and State health department staff, emergency first responders, and primary and acute-care providers on the best practices necessary to protect against, identify and respond to the wide array of potential threats facing the American public, including bioterrorism, infectious disease and weapons of mass destruction. The capacity and competency of our healthcare workforce is a critical component of the basic public-health infrastructure necessary to protect our communities. As with our military, our public-health system must be prepared at all times to ward off threats and respond to crises. Our national public-health infrastructure is the first and in some cases the only line of defense. Like our military, our public-health system must be at a constant state of readiness nationwide and this legislation will enable our public health system to better achieve this goal. If the public-health system is fully prepared then communities across the country will be better protected.

By Mr. HARKIN:

S. 1706. A bill to provide for the enhanced control of biological agents and toxins; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, in May 1995, Larry Wayne Harris of Ohio ordered three vials of the bacterium that causes bubonic plague to be FedEx'ed from a company in Rockville, MD. At the time, all he needed was a credit card and letterhead. He invented both

the letterhead and the lab he claimed to be from. In fact he was a member of a white supremacist group who would later tell of plans to kill hundreds of thousands of Americans with the plague. But when he was arrested with the vials, he was only charged with mail fraud for misrepresenting himself. No Federal license, registration, or even notification was required to obtain, own, or work with the plague.

Partly as a result of this incident, Congress in 1996 passed provisions in the Antiterrorism and Effective Death Penalty Act to close the specific loophole. This bill required the Secretary of Health and Human Services to regulate transfer of a select list of biological agents. But it did not regulate possession or use of the agents. The subsequent regulations incorporated safety standards for labs receiving these agents, but set virtually no security standards to make sure these agents don't end in the wrong hands. They carved out broad exemptions, including all certified clinical laboratories. And they included little means of enforcement.

I think most Americans would be shocked to learn that we still have no idea who has anthrax, plague, or other biological agents in their freezer. Labs have had to register only if they have sent or received one of the agents since 1996. We know the recent attacks with anthrax used the so-called "Ames" strain of anthrax, which was identified at Iowa State University some decades ago, but we don't know how many labs in the United States have samples of this strain today. If we had that information before the next attack, especially if a less common agent or strain were used, it could be the starting point for the next investigation.

We can and we must do better. We have long had relatively tight controls on materials that can be used in nuclear weapons. You must have a license from the NRC or an agreement state to possess these nuclear materials. There are strict safety and security requirements on the licensees, and a small army of inspectors to make sure they comply. Licensees must report all shipments and receipts, and report any losses from their inventory of a gram or more of the most dangerous materials. Bioweapons have been called "the poor man's nuclear bomb" because they could cause similar devastation, but are easier and cheaper to obtain. It's time we place reasonable controls on biological agents too.

That is why I am introducing the Bioweapons Control and Tracking Act of 2001. This bill would for the first time impose five important controls on dangerous biological agents and toxins to reduce the risk of an accident or terrorist attack. First, the bill would direct the Secretary of Health and Human Services to regulate the possession and use of select biological agents as well as their transfer.

Second, the regulations would require registration with the Department

for possession, use, and transfer of select agents and toxins. The registration would include known characterization of the agents, such as the strains, in order to facilitate their traceability. The Department would be required to maintain a database of locations and characterizations of the agents using the registration information.

Third, the regulations would also have to include safeguards and security standards, as well as safety standards. Labs would be required to restrict access to the agents to people who need to handle them. And a process would be set up to screen people who do have access to the agents.

Fourth, the bill requires that any exemptions from these regulations be consistent with public health and safety. Any exemptions from registration requirements would have to still allow a complete database of agents of concern, but exemptions could be allowed either for a lab that only temporarily possesses the agent or for samples that could not be useful for making a weapon. These exemptions are intended to avoid an unnecessary burden on thousands of clinical labs that receive diagnostic samples for testing and, if the test is positive for a select agent, quickly pass the sample on to a government lab or destroy it.

Fifth, the bill includes strong enforcement measures. The bill specifically authorizes inspections to ensure compliance. To give teeth to the enforcement, it enacts a civil penalty for violating the regulations of up to \$250,000 for an individual of \$500,000 for a group. And it enacts a criminal penalty up to 5 years in prison for possession or transfer of select agents by someone who is not registered, and also for transfer to a person who is not registered.

In addition, the bill exempts information about specific labs from disclosure under the Freedom of Information Act to prevent one-stop-shopping for information by would-be bioterrorists. It requires biennial review of the list of biological agents and toxins of concern. And it codifies the law in Public Health Service Act, maintains current regulations until the Secretary issues new ones, and sets a deadline for the registration and associated penalties.

I have been working with several of my colleagues on a \$4 billion package to strengthen our response to a possible bioterrorism attack, so that we can stop a terrible attack from becoming a national or world calamity. We need these funds to strengthen the public health infrastructure, monitor food safety, and build our capacity for vaccinations. But for just a few millions dollars we may be able to prevent an attack, to stop bioterrorists before they even get hold of the necessary agents. We must not delay.

By Mr. McCONNELL (for himself and Ms. LANDRIEU):

S. 1708. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure the

continuity of medical care following a major disaster by making private for-profit medical facilities eligible for Federal disaster assistance; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, I rise today to introduce the Parity in Emergency Preparedness and Response Act of 2001. The horrific attacks of September 11 and subsequent anthrax exposures have focused our attention on the need to prepare and respond to emergencies, whether they result from acts of nature or the misdeeds of man. The legislation I introduce today will correct a provision in current law that prevents many hospitals from working with the Federal Government to prevent and respond to disasters. When tragedy strikes, the most important consideration shouldn't be a hospital's tax status, but rather its ability to care for the injured.

In 1974, Congress enacted the Robert T. Stafford Disaster Relief and Emergency Assistance Act, commonly referred to as the Stafford Act. This important legislation helps States and communities plan for emergencies and take steps to minimize the damage inflicted by a potential disaster. Once a disaster strikes, the Stafford Act authorizes the President to provide communities the resources they need to respond quickly and recover completely.

While the Stafford Act has helped countless communities respond to disasters, it has one glaring shortcoming, it prohibits the President and Federal Emergency Management Agency, FEMA, from offering assistance to hospitals that are owned or managed by private companies. As a result, there are 36 hospitals in my home State of Kentucky which are ineligible to receive Federal disaster mitigation and recovery funds.

I find it incomprehensible that the Federal Government would deny needed disaster assistance to a county hospital, simply because of its ownership, management structure, or tax status. Is a tornado any less devastating in one community than another, simply because of a local hospital's tax status? Are they any less deserving of the Federal Government's support? I think not.

What I find most troubling about this disparity is that it disproportionately affects rural communities, whose hospitals are frequently owned by the community but operated by private companies. Many small towns and rural counties prefer this sort of relationship because it allows them to ensure their citizens have access to needed health care services, while relieving themselves of the burdens of operating a modern hospital. In the rural Kentucky communities of Caldwell, Cumberland, Crittenden, Fleming, Marshall, Monroe, Ohio and Bell Counties, the community owns the hospital but contracts with a private management firm to direct the hospital's day to day operations. As a result of this relation-

ship, these publicly owned hospitals are not eligible for Federal disaster mitigation or recovery assistance.

Hospitals are critical community resources which must be able to provide services in an emergency, regardless of their ownership or management structure. That is why I am proud to introduce the Parity in Emergency Preparedness and Response Act with my colleague from Louisiana, Ms. LANDRIEU. This legislation would eliminate the disparity which exists between nonprofit and investor-owned hospitals and allow all eligible hospitals to apply for disaster mitigation and recovery funds. Our bill does not create an entitlement for hospitals that are owned or operated by private companies. The Stafford Act is clear in stating the President "may make contributions" to help damaged hospitals respond to and recover from an emergency, and this legislation does nothing to diminish the President's discretion in this regard.

Since September 11, 2001, the need to ensure that our Nation's public health infrastructure is capable of responding to unanticipated emergencies has received renewed attention in Congress. In fact, the Senate will soon consider comprehensive legislation to address the growing threat of bioterrorism and protect the safety of our food supply. While I strongly support the intent of this legislation, it will be woefully incomplete if it does not allow all hospitals, including investor-owned hospitals, to apply for disaster assistance.

Hospitals play a vital role in responding to emergencies, regardless of their management structure. I look forward to working with Ms. LANDRIEU and our colleagues in the Senate to pass this legislation and ensure that all of America's hospitals are prepared to respond to disasters.

I ask unanimous consent that a list of hospitals which would become eligible for disaster assistance under my legislation be printed in the RECORD, and I ask unanimous consent the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1708

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Parity in Emergency Preparedness and Response Act of 2001".

**SEC. 2. ELIGIBILITY OF PRIVATE FOR-PROFIT MEDICAL FACILITIES FOR FEDERAL DISASTER ASSISTANCE.**

(a) ELIGIBILITY OF PRIVATE FOR-PROFIT MEDICAL FACILITIES FOR ASSISTANCE AVAILABLE TO PRIVATE NONPROFIT FACILITIES.—Section 102(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(9)) is amended—

(1) by striking "and facilities" and inserting "facilities"; and

(2) by inserting before the period at the end the following: ", and private for-profit medical facilities (including hospitals and long-term care facilities)".

(b) CLARIFICATION OF ELIGIBILITY OF MEDICAL FACILITIES FOR EMERGENCY PREPAREDNESS ASSISTANCE.—

(1) DEFINITION OF EMERGENCY PREPAREDNESS.—Section 602(a)(3)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(3)(A)) is amended by inserting "the preparation of private nonprofit and for-profit medical facilities (including hospitals and long-term care facilities) to withstand major disasters," after "control centers,".

(2) FUNCTIONS OF FEMA.—Section 611(j)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(1)) is amended in the first sentence by inserting before the period at the end the following: "(including the preparation of private nonprofit and for-profit medical facilities (including hospitals and long-term care facilities) to withstand major disasters)".

(c) DEFINITION OF LONG-TERM CARE FACILITY.—Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended by adding at the end the following:

"(10) LONG-TERM CARE FACILITY.—'Long-term care facility' means—

"(A) any skilled nursing facility (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a));

"(B) any nursing facility (as defined in section 1919(a) of that Act (42 U.S.C. 1396r(a)); and

"(C) any other long-term care facility, such as an intermediate care facility for the mentally retarded.".

ELIGIBLE HOSPITALS Bluegrass Community Hospital, Versailles, KY; Bourbon Community Hospital, Paris, KY; FHC Cumberland Hall, Hopkinsville, KY; Frankfort Regional Medical Center, Frankfort, KY; Gateway Rehabilitation Hospital, Florence, KY; Gateway Rehabilitation Hospital at Norton Healthcare Pavilion, Louisville, KY; Georgetown Community Hospital, Georgetown, KY; Greenview Regional Hospital, Bowling Green, KY; HEALTHSOUTH Rehabilitation Hospital of Central Kentucky, Elizabethtown, KY; HEALTHSOUTH Rehabilitation Hospital of Northern Kentucky, Edgewood, KY; Jackson Purchase Medical Center, Mayfield, KY; Jenkins Community Hospital, Jenkins, KY; Kentucky River Medical Center, Jackson, KY; Kindred Hospital-Louisville, Louisville, KY; Lake Cumberland Regional Hospital, Somerset, KY; Lincoln Trail Behavioral Health System, Radcliff, KY; Logan Memorial Hospital, Russellville, KY; Meadowview Regional Medical Center, Maysville, KY; Medplex Rehab-Bowling Green, Bowling Green, KY; Paul B. Hall Regional Medical Center, Paintsville, KY; Ridge Behavioral Health System, Lexington, KY; Rivendell Behavioral Health Services, Bowling Green, KY; Samaritan Hospital, Lexington, KY; Ten Broeck Hospital, Louisville, KY; Ten Broeck Hospital DuPont, Louisville, KY; Three Rivers Medical Center, Louisa, KY; Caldwell County Hospitals, Princeton, KY; Crittenden Health System, West Marion, KY; Cumberland County Hospital, Burkesville, KY; Fleming County Hospital, Flemingsburg, KY; Jennie Stuart Medical Center, Hopkinsville, KY; Marshall County Hospital, Benton, KY; Monroe County Medical Center, Tompkinsville, KY; Muhlenberg Community Hospital, Greenville, KY; Ohio County Hospital, Hartford, KY; and Pineville Community Hospital, Pineville, KY.

By Mr. CAMPBELL:

S. 1711. A bill to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado, and for other purposes; to the

Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, today I introduce the "James Peak Wilderness and Protection Area Act." This language is the product of years of detailed negotiations regarding an area of great majesty in my home State of Colorado.

When discussing public lands issues, the potential uses for land are as varied and numerous as the diverse groups of users. Oftentimes, one camp is pitted against another, each convinced that its view is right to the point that it necessarily excludes the other interested party. And the result is that nothing viable happens. No land is protected and no uses of land are preserved. Instead, we read of angry exchanges, that if it were not for one side being so stubborn in its view, then we would have had a bill, while ignoring their own immobile position.

This bill, I am very proud to say, is different from the all-too-common discourse that I described.

This bill stands as a testament to what can be achieved when interested parties stop for a moment and listen to each other. I would like to take this moment to commend the work of my friends in the House, Representatives UDALL and MCINNIS for their efforts on this issue.

The "James Peak Wilderness and Protection Area Act" respects the diverse uses of Colorado's lands and recognizes those differences accordingly. This bill designates about 14,000 acres in Boulder, Clear Creek, and Gilpin Counties as Wilderness, and enlarges the existing Indian Peaks Wilderness by an additional 3,195 acres. Further, this carefully balanced approach designates 16,000 acres of national forest land as the "James Peak Protection Area." The Protection Area in Grand County would disallow development of the land, but would permit recreational use for the public's continued enjoyment.

I am pleased with the careful compromises that were necessary in crafting this bill and proudly introduce it today. I only wish this kind of cooperation was more evident in the other discussions about public lands in America.

I hope for quick passage of this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1711

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "James Peak Wilderness, Wilderness Study, and James Peak Protection Area Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD.—The term "Board" means the Colorado State Land Board.

(2) FOREST SUPERVISOR.—The term "Forest Supervisor" means the Forest Supervisor of the Arapaho National Forest and Roosevelt National Forest.

(3) MANAGEMENT PLAN.—The term "management plan" means the 1997 Revision of the Land and Resource Management Plan for the Arapaho and Roosevelt National Forests and the Pawnee National Grasslands.

(4) PROTECTION AREA.—The term "Protection Area" means the James Peak Protection Area designated by section 4(b).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) SPECIAL INTEREST AREA.—The term "special interest area" means the land in the Protection Area that is bounded—

(A) on the north by Rollins Pass Road;  
(B) on the east by the Continental Divide; and

(C) on the west by the 11,300-foot elevation contour, as depicted on the map entitled "Proposed James Peak Protection Area", dated September 2001.

(7) STATE.—The term "State" means the State of Colorado.

#### SEC. 3. WILDERNESS DESIGNATION.

(a) JAMES PEAK WILDERNESS.—Section 2(a) of the Colorado Wilderness Act of 1993 (Public Law 103-77; 107 Stat. 756) is amended by adding at the end the following:

"(20) JAMES PEAK WILDERNESS.—Certain land in the Arapaho National Forest and Roosevelt National Forest comprising approximately 14,000 acres, as generally depicted on the map entitled 'Proposed James Peak Wilderness', dated September 2001, and which shall be known as the 'James Peak Wilderness'."

(b) ADDITION TO THE INDIAN PEAKS WILDERNESS AREA.—Section 3 of the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95-450; 92 Stat. 1095) is amended by adding at the end the following:

"(c) ADDITIONAL LAND.—In addition to the land described in subsection (a), the Indian Peaks Wilderness Area shall include—

"(1) the approximately 2,232 acres of Federal land in the Arapaho National Forest and Roosevelt National Forest, as generally depicted on the map entitled 'Ranch Creek Addition to Indian Peaks Wilderness', dated September 2001; and

"(2) the approximately 963 acres of Federal land in the Arapaho National Forest and Roosevelt National Forest, as generally depicted on the map entitled 'Fourth of July Addition to Indian Peaks Wilderness', dated September 2001."

(c) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

(A) a map and legal description of the area designated as wilderness by the amendments made by subsection (a); and

(B) a map and legal description of the area added to the Indian Peaks Wilderness Area by the amendments made by subsection (b).

(2) EFFECT.—The maps and legal descriptions shall have the same force and effect as if included in—

(A) the Colorado Wilderness Act of 1993 (Public Law 103-77; 107 Stat. 756); and

(B) the Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95-450; 92 Stat. 1095).

(3) CORRECTIONS.—The Secretary may correct technical errors in the maps and legal descriptions.

(4) AVAILABILITY.—Copies of the maps and legal descriptions shall be on file and available for public inspection in—

(A) the office of the Chief of the Forest Service; and

(B) the office of the Forest Supervisor.

#### SEC. 4. DESIGNATION OF JAMES PEAK PROTECTION AREA.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) the Protection Area includes important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude;

(B) the Protection Area includes areas that are suitable for recreational uses, including the use of snowmobiles and other motorized and nonmotorized vehicles; and

(C) the Protection Area should be managed in a way that protects the resources and values of the Protection Area while permitting continued recreational uses, subject to appropriate regulations.

(2) PURPOSE.—The purpose of this section is to provide for management of certain land in the Arapaho National Forest and Roosevelt National Forest in a manner that—

(A) is consistent with the management plan; and

(B) protects the natural qualities of the land.

(b) DESIGNATION.—The approximately 16,000 acres of land in the Arapaho National Forest and Roosevelt National Forest generally depicted on the map entitled "Proposed James Peak Protection Area", dated September 2001, is designated as the "James Peak Protection Area".

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and legal description of the Protection Area.

(2) EFFECT.—The map and legal description shall have the same force and effect as if included in this Act.

(3) CORRECTIONS.—The Secretary may correct clerical and typographical errors in the map and legal description.

(4) AVAILABILITY.—The map and legal description shall be on file and available for public inspection in—

(A) the office of the Chief of the Forest Service; and

(B) the office of the Forest Supervisor.

(d) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary shall manage and administer the Protection Area in accordance with the management plan.

(2) GRAZING.—Nothing in this Act, including the establishment of the Protection Area, affects grazing on land in or outside of the Protection Area.

(3) WITHDRAWALS.—

(A) IN GENERAL.—Subject to valid existing rights, all Federal land in the Protection Area (including land and interests in land acquired for the Protection Area by the United States after the date of enactment of this Act) is withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(B) EFFECT.—Nothing in subparagraph (A) affects the discretionary authority of the Secretary under other Federal law to grant, issue, or renew any right-of-way or other land use authorization consistent with this Act.

(4) MOTORIZED AND MECHANIZED TRAVEL.—

## (A) REVIEW AND INVENTORY.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with any interested parties, shall complete a review and inventory of all roads and trails in the Protection Area (excluding the special interest area) on which use was allowed on September 10, 2001.

(ii) CONNECTION.—In conducting the review and inventory under clause (i), the Secretary may connect any existing road or trail in the inventory area to another existing road or trail in the inventory area for the purpose of mechanized and nonmotorized use, if the connection results in no net gain in the total mileage of roads or trails open for public use in the Protection Area.

(iii) CLOSURE.—In conducting the review and inventory under clause (i), the Secretary may close or remove any road or trail in the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed under paragraph (7).

(iv) DESIGNATED AREAS.—As soon as practicable after completion of the review and inventory under clause (i), the Secretary shall prohibit motorized and mechanized travel in the Protection Area, except on roads and trails—

(I) identified as being open to use in the inventory; or

(II) established under paragraph (5).

(B) ROGERS PASS TRAIL.—Notwithstanding any other provision of this Act, a motorized vehicle shall not be permitted on any part of the Rogers Pass Trail.

## (5) NEW ROADS AND TRAILS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no road or trail shall be established in the Protection Area after the date of enactment of this Act.

(B) ESTABLISHMENT.—The Secretary may establish—

(i) a new road or trail to replace a road or trail of the same character and scope that has become nonserviceable because of a reason other than neglect;

(ii) as necessary, nonpermanent roads for—

(I) hazardous fuel reduction;

(II) fire, insect, or disease control projects;

or

(III) other management purposes;

(iii) any road determined to be appropriate for reasonable access under section 5(b)(3);

(iv) a loop trail established under section 7;

or

(v) a trail for nonmotorized use along the corridor designated as the Continental Divide Trail.

(6) TIMBER HARVESTING.—No timber harvesting shall be allowed within the Protection Area, except to the extent necessary for—

(A) hazardous fuel reduction;

(B) a fire, insect, or disease control project;

or

(C) protection of public health or safety.

(7) SPECIAL INTEREST AREA.—The management prescription applicable to the land referred to in the management plan as the James Peak Special Interest Area shall apply to the special interest area.

## (e) NATURAL GAS PIPELINE.—

(1) MAINTENANCE.—The Secretary shall allow for maintenance of rights-of-way and access roads located in the Protection Area—

(A) to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01; and

(B) in a manner that—

(i) does not have a negative effect on public safety; and

(ii) allows for compliance with Federal pipeline safety requirements.

(2) INCLUSIONS.—Maintenance under paragraph (1) may include—

(A) vegetation management;

(B) road maintenance;

(C) ground stabilization; and

(D) motorized vehicle access.

(f) PERMANENT FEDERAL OWNERSHIP.—All right, title, and interest of the United States, held on or acquired after the date of enactment of this Act, in and to land within the boundaries of the Protection Area shall be retained by the United States.

## (g) WATER RIGHTS.—

(1) EFFECT OF THIS ACT.—Nothing in this Act—

(A) constitutes an express or implied reservation of any water or water right with respect to land within the Protection Area;

(B) affects any conditional or absolute water right in the State in existence on the date of enactment of this Act;

(C) establishes a precedent with regard to any future Protection Area designation; or

(D) limits, alters, modifies, or amends any interstate compact or equitable apportionment decree that apportions water among and between the State and other States.

(2) COLORADO WATER LAW.—The Secretary shall be subject to all procedural and substantive laws of the State in order to obtain and hold any new water rights with respect to the Protection Area.

(3) WATER INFRASTRUCTURE.—Nothing in this Act affects, impedes, interferes with, or diminishes the operation, existence, access, maintenance, improvement, or construction of a water facility or infrastructure, right-of-way, or other water-related property, interest, or use (including the use of motorized vehicles and equipment on land within the Protection Area) on any land except the land in the special interest area.

**SEC. 5. ACQUISITION OF LAND.**

(a) BOARD LAND.—The Secretary may acquire by purchase or exchange land in the Protection Area owned by the Board.

## (b) JIM CREEK DRAINAGE.—

(1) IN GENERAL.—The Secretary may acquire by purchase or exchange land in the Jim Creek drainage in the Protection Area.

(2) CONSENT OF LANDOWNER.—The Secretary may acquire land under this subsection only with the consent of the landowner.

(3) EFFECT.—Nothing in this Act affects the rights of any owner of land located within the Jim Creek drainage in the Protection Area, including any right to reasonable access to the land by motorized or other means, as determined by the Chief of the Forest Service and the landowner, in accordance with applicable law (including regulations).

## (c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations for the acquisition of land under—

(A) subsection (a), on the earlier of—

(i) the date on which an agreement for acquisition by the United States of land referred to in subsection (a) is entered into; or

(ii) 1 year after the date of enactment of this Act; and

(B) subsection (b), on the earlier of—

(i) the date on which an agreement for acquisition by the United States of land referred to in subsection (b) is entered into; or

(ii) 1 year after the date of enactment of this Act.

(2) REQUIREMENTS.—A report under paragraph (1) shall include information on funding, including—

(A) to what extent funds are available to the Secretary for the acquisition of the land, as of the date of the report; and

(B) whether additional funds need to be appropriated or otherwise made available to the Secretary for the acquisition of the land.

(d) MANAGEMENT OF ACQUISITIONS.—Any land within the James Peak Wilderness or the Protection Area acquired by the United States after the date of enactment of this Act shall be added to the James Peak Wilderness or the Protection Area, respectively.

**SEC. 6. JAMES PEAK FALL RIVER TRAILHEAD.**

## (a) SERVICES AND FACILITIES.—

(1) IN GENERAL.—Following the consultation required by subsection (c), the Forest Supervisor shall establish a trailhead, facilities, and services for National Forest System land that is located—

(A) in the vicinity of the Fall River basin; and

(B) south of the communities of Alice Township and St. Mary's Glacier in the State.

(2) INCLUSIONS.—The facilities and services under paragraph (1) shall include—

(A) parking for the trailhead;

(B) public restroom accommodations; and

(C) maintenance of the trailhead and trail.

(b) PERSONNEL.—The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area specified in subsection (a)(1).

(c) CONSULTATION.—The Forest Supervisor shall consult with the commissioners of Clear Creek County and with residents of Alice Township and St. Mary's Glacier in the State regarding—

(1) the appropriate location of facilities and services in the area specified in subsection (a)(1); and

(2) appropriate measures that may be needed in this area—

(A) to provide access by emergency or law enforcement vehicles;

(B) for public health; and

(C) to address concerns regarding impeded access by local residents.

(d) REPORT.—As soon as practicable after the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

**SEC. 7. LOOP TRAIL STUDY.**

(a) STUDY.—Not later than 3 years after the date on which funds are first made available to carry out this section, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose described in section 4(a)(2), a loop trail for mechanized and other nonmotorized recreation that connects the trail designated as "Rogers Pass" and the trail designated as "Rollins Pass Road".

(b) ESTABLISHMENT.—If the results of the study required by subsection (a) indicate that establishment of a loop trail would be suitable and feasible, the Secretary shall establish the loop trail.

**SEC. 8. ADMINISTRATIVE PROVISIONS.**

## (a) NO BUFFER ZONES.—

(1) IN GENERAL.—The designation by this Act or by amendments made by this Act of wilderness areas under section 3 and the Protection Area in the State shall not establish any express or implied protective perimeter or buffer zone around a wilderness area or the Protection Area.

(2) SURROUNDING LAND.—The fact that the use of, or conduct of an activity on, land that shares a boundary with a wilderness area or the Protection Area may be seen or heard from a wilderness area or the Protection Area shall not, in and of itself, preclude the conduct of the use or activity.

(b) ROLLINS PASS ROAD.—

(1) IN GENERAL.—If requested by 1 or more of Grand, Gilpin, or Boulder Counties in the State, the Secretary, with respect to the repair of the Rollins Pass road in those counties, shall provide technical assistance and otherwise cooperate with the counties to permit 2-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40.

(2) CLOSURE OF MOTORIZED ROADS AND TRAILS.—If Rollins Pass road is repaired in accordance with paragraph (1), the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled "Rollins Pass Road Reopening: Attendant Road and Trail Closures," dated September 2001.

#### SEC. 9. WILDERNESS POTENTIAL.

(a) IN GENERAL.—Nothing in this Act precludes or restricts the authority of the Secretary—

(1) to evaluate the suitability of land in the Protection Area for inclusion in the National Wilderness Preservation System; or

(2) to make recommendations to Congress on the inclusion of land evaluated under paragraph (1) in the National Wilderness Preservation System.

(b) EVALUATION OF CERTAIN LANDS.—As part of the first revision of the management plan carried out after the date of the enactment of this Act, the Secretary shall—

(1) evaluate the suitability of the special interest area for inclusion in the National Wilderness Preservation System; and

(2) make recommendations to Congress on the inclusion of land evaluated under paragraph (1) for inclusion in the National Wilderness Preservation System.

By Mr. GRASSLEY (for himself, Mr. KOHL, Mr. HATCH, Mr. CARPER, Mr. THURMOND, Mr. CHAFEE, and Mr. SPECTER):

S. 1712. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the "Class Action Fairness Act of 2001." I am pleased to be joined by Senators KOHL, HATCH, CARPER, THURMOND, CHAFEE and SPECTER. The Class Action Fairness Act of 2001 will help curb class action lawsuit abuses and protect consumers who find themselves as potential members of class action lawsuits. At the same time, the bill will preserve class action lawsuits as an important tool that brings representation to the unrepresented.

In the last Congress, Senator KOHL and I introduced S. 353, the "Class Action Fairness Act of 1999." We worked diligently and in good faith to address concerns expressed by members of the Judiciary Committee, as well as others interested in this issue. The Judiciary Committee marked up and favorably voted out a Hatch/Grassley/Kohl amendment in the nature of a substitute. Unfortunately, S. 353 was not considered by the full Senate in the 106th Congress because of the press of other legislative business.

Today, we are introducing the bill that the Senate Judiciary Committee agreed to in the last Congress, with

minor modifications. We have also included a few more provisions that will better protect class members. I am hopeful that in this Congress, the Senate will consider this bill promptly and enact the much needed changes to the current system.

Presently, the class action system is awash with problems. More and more class action lawsuits are being filed to the benefit of attorneys, where attorneys agree to settlements that give them huge fees while their clients get little of value or nothing. A 1999 Rand Report on class actions found that state courts often give most of the money in a settlement to the lawyers, not the class members they supposedly represent. The Judiciary Committee held hearings where we heard about settlement after settlement where class members got coupons or nothing, but the lawyers got millions of dollars in attorneys' fees. We heard about class members being awarded restrictive coupons for airline tickets, as well as class members who received a lawyers' bill that was higher than the compensation for their injury. But the lawyers got all the money in fees.

Is this fair? I thought the lawyers were supposed to represent their clients, not themselves. I am not saying that attorneys should not be paid for their work, but it seems to me that lawyers have found class actions to be an easy way for them to make money.

The Judiciary Committee also heard that lawyers game the class action rules to keep class actions in certain State courts, particularly courts that are quick to certify a class without adequately considering the interests of all class members or courts that aren't careful in evaluating whether the proposed class meets the required class criteria. Those State courts are also more likely to rubber-stamp settlement proposals without scrutinizing them for fairness. For example, we learned that in some cases members of a class that lived closer to the courthouse in which the settlement was filed got a larger recovery than others. We also learned about settlements where a bounty was paid to class representatives which was disproportionately larger than that provided to absent class members.

It's easy for lawyers to forum-shop and keep these cases in State court, for example, attorneys name irrelevant parties to their class action suits in an effort to destroy diversity. Attorneys make inaccurate statements about the jurisdictional amount to keep the defendant from transferring the case to Federal court, but then retract them one year later when removal is barred. In addition, similar class actions are filed in many State courts and cannot be consolidated, increasing the chances for collusive settlements or situations where there is a "race to settlement" by the attorneys. This also creates significant inefficiencies and waste of court resources.

A much more troublesome effect of this problem is the fact that State

courts are making decisions for the entire country. The 1999 Rand Study and a more recent study by the Manhattan Institute found that most of the increase in class action lawsuits is occurring in State courts. With this happening, basically State courts are dictating national policy. Class actions are usually the cases that involve the most people, the most money, and the most interstate commerce issues. But it is clear that these cases really belong in Federal court. And there is a constitutional basis for this. Article 3, section 2 of the Constitution states that controversies between citizens of different States should be subject to the jurisdiction of the Federal courts. However, the present Federal jurisdiction statutes were originally enacted over a century ago, so they do not take the modern day class action into account and basically exclude them from the Federal court system.

Consequently, the current system produces aberrant results as to what can or cannot proceed in Federal court. For example, right now, a slip and fall case worth \$75,001 involving two residents from different States can be heard in Federal court. But a nationwide class action that involves millions of citizens residing in all 50 States, that seeks billions of dollars in damages, implicates the laws of every State, and involves interstate commerce issues, is mainly confined to the State courts. Why should a State court with an elected judge decide these cases, but not a Federal judge?

By only allowing State courts to hear nationwide class actions, State courts can dictate national policy or improperly impose their State's laws on the citizens of other States. Let me illustrate this serious problem with the State Farm case. In a large class action case brought against State Farm on the issue of auto insurers' use of "aftermarket" auto parts in automobile repairs, an Illinois court applied Illinois auto insurance law to the other 49 States. Several State attorneys general intervened in the case and expressed their opposition to the court's application of Illinois law to their citizens. The National Association of State Insurance Commissioners and Public Citizen also expressed concern over the outcome of this case. The reason for this opposition was because State laws and policy on the use of aftermarket parts varies widely State by State, yet the Illinois State court imposed its auto insurance laws on the other States. The ability of a State court to have such a monumental impact on the laws of other States, by basically overturning national policy and the laws or regulations of the other 50 States is more than troubling.

So, there are compelling reasons for us to take remedial steps regarding the class action system. The Class Action Fairness Act of 2001 takes a good first step at addressing some of the problems we have identified. To address the problem of class members not knowing

what is going on in a class action or settlement, or not being clear as to what their rights are, the Class Action Fairness Act of 2001 has a provision that notice to class members needs to contain an explanation of their rights and other matters concerning settlement terms, including attorneys' fees, in a plain and easy to understand language.

To address the problem where class members get nothing and attorneys get millions, the Class Action Fairness Act of 2001 provides that notification of any proposed settlements must be given to the State attorneys general or the primary regulatory or licensing agency of any State whose citizens are involved. This is so that the State attorney general or responsible agency can intervene in the case to ensure that settlements are fair. To address the problem of special bounties that unfairly impact the absent members of a class, the bill contains a new provision that would prohibit the payment of bounties to class representatives that are disproportionately larger than that provided to absent class members. To address the problem of discrimination between class members based on geographic location, the bill contains a new provision that prohibits courts from approving settlements that award some class members a larger recovery than others based on geography.

To start responding to the issue of outrageous attorneys fees, the Class Action Fairness Act of 2001 asks the Judicial Conference to report back to Congress in a year after studying attorneys' fees in class actions and how judges can do a better job in making sure that class action settlements are fair. The bill also includes new provisions that protect class members against net losses and require the courts to make specific findings as to the fairness of coupon and other non-cash class action settlements.

To respond to the problem where plaintiff lawyers game the system to improperly keep class action cases in State court, or where similar class action suits are being filed in different State courts, or where State courts are imposing their laws on citizens of other States and formulating national policy, the Class Action Fairness Act of 2001 loosens diversity and removal requirements so that class action cases with national ramifications can be heard in Federal courts and similar class actions can be consolidated. The bill is crafted so that it will not harm federalism or deprive State courts of their ability to adjudicate cases for their own citizens. That is because there is a constitutional basis for class actions to proceed in Federal court. Clearly, the Federal courts are a better forum for these kinds of cases that are of nationwide importance.

In conclusion, there is substantial evidence that class action abuse is going on and we should do something about it. I think that the Class Action Fairness Act of 2001 is a good, balanced

bill that addresses some of the problems that we've identified. Moreover, there has been a lot of compromise to address concerns about the bill. We have also improved the bill by adding additional consumer protections. So, the Class Action Fairness Act of 2001 will preserve the class action process, but put a stop to the more egregious abuses in the system.

In addition, I'd like to thank my friend Senator KOHL, who has worked so closely with me over the years in bringing the issue of class action abuse to the forefront. We both share a deep concern over protecting the rights of consumers, while making sure that the due process rights of all litigants are preserved. I'd also like to thank Senator HATCH, who worked with us to move this bill forward in the Judiciary Committee last year, and worked on improvements to the bill.

I urge all my colleagues to join Senators KOHL, HATCH, CARPER, THURMOND, CHAFEE and SPECTER in supporting this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1712

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Class Action Fairness Act of 2001".

(b) **REFERENCE.**—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; reference; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
- Sec. 4. Federal district court jurisdiction for interstate class actions.
- Sec. 5. Removal of interstate class actions to Federal district court.
- Sec. 6. Report on class action settlements.
- Sec. 7. Effective date.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly; and

(B) undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where—

(A) counsel are awarded large fees, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Abuses in class actions undermine the national judicial system and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(b) **PURPOSES.**—The purposes of this Act are to—

(1) assure fair and prompt recoveries for class members with legitimate claims;

(2) restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3) benefit society by encouraging innovation and lowering consumer prices.

**SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.**

(a) **IN GENERAL.**—Part V is amended by inserting after chapter 113 the following:

**"CHAPTER 114—CLASS ACTIONS**

**"Sec.**

"1711. Definitions.

"1712. Judicial scrutiny of coupon and other noncash settlements.

"1713. Protection against loss by class members.

"1714. Protection against discrimination based on geographic location.

"1715. Prohibition on the payment of bounties.

"1716. Clearer and simpler settlement information.

"1717. Notifications to appropriate Federal and State officials.

**"§ 1711. Definitions**

"In this chapter:

"(1) **CLASS.**—The term 'class' means all of the class members in a class action.

"(2) **CLASS ACTION.**—The term 'class action' means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representatives as a class action.

"(3) **CLASS COUNSEL.**—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.

"(4) **CLASS MEMBERS.**—The term 'class members' means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

"(5) **PLAINTIFF CLASS ACTION.**—The term 'plaintiff class action' means a class action in which class members are plaintiffs.

"(6) **PROPOSED SETTLEMENT.**—The term 'proposed settlement' means an agreement regarding a class action that is subject to court approval and that, if approved, would be binding on some or all class members.

**“§ 1712. Judicial scrutiny of coupon and other noncash settlements**

“The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

**“§ 1713. Protection against loss by class members**

“The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

**“§ 1714. Protection against discrimination based on geographic location**

“The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

**“§ 1715. Prohibition on the payment of bonuses**

“(a) IN GENERAL.—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

“(b) RULE OF CONSTRUCTION.—The limitation in subsection (a) shall not be construed to prohibit a payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling the obligations of that person as a class representative.

**“§ 1716. Clearer and simpler settlement information**

“(a) PLAIN ENGLISH REQUIREMENTS.—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

“(1) at the beginning of such notice, a statement in 18-point or greater bold type, stating ‘LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE.’;

“(2) a short summary written in plain, easily understood language, describing—

“(A) the subject matter of the class action;

“(B) the members of the class;

“(C) the legal consequences of being a member of the class action;

“(D) if the notice is informing class members of a proposed settlement agreement—

“(i) the benefits that will accrue to the class due to the settlement;

“(ii) the rights that class members will lose or waive through the settlement;

“(iii) obligations that will be imposed on the defendants by the settlement;

“(iv) the dollar amount of any attorney’s fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of any attorney’s fee class counsel will be seeking; and

“(v) an explanation of how any attorney’s fee will be calculated and funded; and

“(E) any other material matter.

“(b) TABULAR FORMAT.—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

“(1) be placed in a conspicuous and prominent location on the notice;

“(2) contain clear and concise headings for each item of information; and

“(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

“(c) TELEVISION OR RADIO NOTICE.—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from a class action or a proposed settlement, if such right exists, shall, in plain, easily understood language—

“(1) describe the persons who may potentially become class members in the class action; and

“(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person’s inclusion in the class action.

**“§ 1717. Notifications to appropriate Federal and State officials**

“(a) DEFINITIONS.—

“(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term ‘appropriate Federal official’ means—

“(A) the Attorney General of the United States; or

“(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

“(2) APPROPRIATE STATE OFFICIAL.—In this section, the term ‘appropriate State official’ means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

“(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

“(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

“(2) notice of any scheduled judicial hearing in the class action;

“(3) any proposed or final notification to class members of—

“(A)(i) the members’ rights to request exclusion from the class action; or

“(ii) if no right to request exclusion exists, a statement that no such right exists; and

“(B) a proposed settlement of a class action;

“(4) any proposed or final class action settlement;

“(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

“(6) any final judgment or notice of dismissal;

“(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State’s appropriate State official; or

“(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

“(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

“(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

“(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

“(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

“(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

“(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

“(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

“(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

“(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member’s behalf, and shall not be construed to limit any other rights affecting a class member’s participation in the settlement.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the

authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

“114. Class Actions ..... 1711”.

**SEC. 4. FEDERAL DISTRICT COURT JURISDICTION FOR INTERSTATE CLASS ACTIONS.**

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d)(1) In this subsection—

“(A) the term ‘class’ means all of the class members in a class action;

“(B) the term ‘class action’ means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action;

“(C) the term ‘class certification order’ means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

“(D) the term ‘class members’ means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

“(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$2,000,000, exclusive of interest and costs, and is a class action in which—

“(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

“(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

“(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

“(3) Paragraph (2) shall not apply to any civil action in which—

“(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

“(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

“(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

“(C) the number of members of all proposed plaintiff classes in the aggregate is less than 100.

“(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$2,000,000, exclusive of interest and costs.

“(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

“(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the prerequisites of rule 23 of the Federal Rules of Civil Procedure.

“(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such ac-

tion filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

“(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

“(7) Paragraph (2) shall not apply to any class action that solely involves a claim—

“(A) concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

“(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

“(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

“(9)(A) For purposes of this section and section 1453 of this title, a civil action that is not otherwise a class action as defined in paragraph (1)(B) shall nevertheless be deemed a class action if—

“(i) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

“(ii) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

“(B)(i) In any civil action described under subparagraph (A)(ii), the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members.

“(ii) Paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action described under subparagraph (A)(i).

“(iii) Paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to any civil action described under subparagraph (A)(ii).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1335 (a)(1) is amended by inserting “(a) or (d)” after “1332”.

(2) Section 1603 (b)(3) is amended by striking “(d)” and inserting “(e)”.

**SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.**

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

**“§ 1453. Removal of class actions**

“(a) DEFINITIONS.—In this section, the terms ‘class’, ‘class action’, ‘class certification order’, and ‘class member’ shall have

the meanings given such terms under section 1332(d)(1).

“(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

“(1) by any defendant without the consent of all defendants; or

“(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

“(c) WHEN REMOVABLE.—This section shall apply to any class action before or after the entry of a class certification order in the action.

“(d) PROCEDURE FOR REMOVAL.—Section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

“(e) REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

“(f) EXCEPTION.—This section shall not apply to any class action that solely involves—

“(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

“(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).”.

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting “(a)” after “section 1332”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

**SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.**

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to

which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(C) **AUTHORITY OF FEDERAL COURTS.**—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys' fees.

**SEC. 7. EFFECTIVE DATE.**

The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.

Mr. KOHL. Mr. President, I rise today to join Senators GRASSLEY, HATCH, CARPER, and THURMOND in introducing the Class Action Fairness Act of 2001. This legislation addresses the growing problems in class action litigation, particularly unfair and abusive settlements that shortchange plaintiff class members.

We have worked together on this legislation in past Congresses. In fact, last year a similar version of class action reform passed the House of Representatives and was approved by the Senate Judiciary Committee. Unfortunately, the session ended before we could bring it to a vote of the full Senate.

The problem that this bill addresses is simple. Too often, the class action procedure is being hijacked by unscrupulous parties who are more interested in making a dollar for themselves than helping the plaintiff class members remedy a legitimate harm. Let me give you just one well known example of the unfairness this bill attempts to correct.

A few years ago, a class action lawsuit was begun against the Bank of Boston. Martha Preston from Baraboo, WI was an unnamed class member of that suit against her mortgage company. The case involved allegations that the bank had overcharged its mortgage customers and had kept excess money in their escrow accounts. It was ultimately settled. Ms. Preston was represented by a group of plaintiffs' lawyers who she had never met. The settlement they negotiated for her was a bad joke. She received four dollars and change in the lawsuit, while her attorneys pocketed \$8 million in fees.

Soon after receiving her four dollars, Ms. Preston discovered that her lawyers helped pay for their fees by taking \$80 from her escrow account. Naturally shocked, she and the other plaintiffs sued the lawyers who in turn sued her in Alabama, a State she had never visited, for \$25 million. Not only was she \$75 poorer for her class action experience, but she also had to defend herself against a \$25 million suit by the very people who took advantage of her in the first place.

In response to this case and many more like it, we developed a measured, reasoned response to protect class ac-

tion plaintiffs against a system which is subject to abuse. As in past years, the bill can be divided into three main sections, all of which provide enhanced protections for individual plaintiffs.

First, the bill provides that every class action notice be written in plain, easily understandable English. Too many of the class action notices are written in legalese, designed to make it impossible for the average American to comprehend his rights and responsibilities as a member of the plaintiff class. The bill requires that a statement be included at the beginning of the notice written in large, bold type alerting the plaintiff that he is involved in a class action lawsuit and that his legal rights are affected by the contents of the notice. This means that every class member will understand the subject matter of the case and his rights and responsibilities as a participant in the lawsuit.

Further, if the case were settled, the notice to the class members would clearly describe the terms of the settlement, the benefits to each plaintiff and a summary of the attorneys fees in the case and how they were calculated. Currently, none of this information is clearly communicated to the class members.

Second, the bill requires that notice be given to State Attorneys General or the appropriate State regulatory authorities about proposed class settlements in Federal court which affect their constituents. This encourages a neutral third party to weigh in on whether a settlement is fair and to alert the court if they do not believe that it is. The Attorney General review is an extra layer of security for the plaintiffs and is designed to ensure that abusive settlements are not approved without a critical review by one or more experts.

Third, the bill makes it easier to move State class action cases to Federal court by changing the diversity rules governing these actions. Class action cases often have national implications and are joined by plaintiffs from many, if not most, States. Currently, class actions are frequently heard by a State court judge in a venue chosen by the plaintiffs' attorneys to maximize the chance that the class action will be certified.

For class actions, the certification process is usually more than half the battle. Once a set of plaintiffs succeeds in getting a judge to certify them as a class, the defendants are often faced with extraordinary costs associated with preparing for trial and dealing with a multitude of plaintiffs. So, the defendants settle the case at terms beneficial to the plaintiffs' attorneys, often at the expense of the plaintiffs themselves.

A recent study on the class action problem by the Manhattan Institute demonstrates that class action cases are being brought disproportionately in a few counties where plaintiffs expect to be able to take advantage of lax certification rules.

The study focused on three county courts, Madison County, IL; Jefferson County, TX; and Palm Beach County, FL, that have seen a steep rise in class action filings over the last several years that seems disproportional to their populations. They found that rural Madison County, IL ranked third nationwide, after Los Angeles County, California and Cook County, Illinois, in the estimated number of class actions filed each year, whereas rural Jefferson County and Palm Beach County ranked eighth and ninth, respectively. As plaintiff attorneys found that Madison County was a welcoming host, the number of class action suits filed there rose 1850 percent between 1998 and 2000.

Another trend evident in the research was the use of "cut-and-paste" complaints in which plaintiffs' attorneys file a number of suits against different defendants in the same industry challenging standard industry practices. For example, within a one-week period early this year, six law firms filed nine nearly identical class actions in Madison County alleging that the automobile insurance industry is defrauding Americans in the way that they calculate claims rates for totaled vehicles.

The system is not working as intended and needs to be fixed. The way to fix it is to move more of these cases currently being brought in small state courts like Madison County, IL to Federal court.

The Federal courts are better venues for class actions for a variety of reasons articulated clearly in a RAND study. RAND proposed three primary explanations why these cases should be in federal court. "First, Federal judges scrutinize class action allegations more strictly than State judges, and deny certification in situations where a State judge might grant it improperly. Second, State judges may not have adequate resources to oversee and manage class actions with a national scope. Finally, if a single judge is to be charged with deciding what law will apply in a multistate class action, it is more appropriate that this take place in federal court than in State court."

We all know that class actions can result in significant and important benefits for class members and society, and that most class lawyers and most state courts are acting responsibly. Class actions have been used to desegregate racially divided schools, to obtain redress for victims of employment discrimination, and to compensate individuals exposed to toxic chemicals or defective products. Class actions increase access to our civil justice system because they enable people to pursue claims that collectively would otherwise be too expensive to litigate.

The difficulty in any effort to improve a basically good system is weeding out the abuses without causing undue damage. The legislation we propose attempts to do this.

Let me emphasize the limited scope of this legislation. We do not close the

courthouse door to any class action. We do not require that State attorneys general do anything with the notice they receive. We do not deny reasonable fees for class lawyers. And we do not mandate that every class action be brought in Federal court. Instead, we simply promote closer and fairer scrutiny of class actions and class settlements.

Right now, people across the country can be dragged into lawsuits unaware of their rights and unarmed on the legal battlefield. What our bill does is give back to regular people their rights and representation. This measure may not stop all abuses, but it moves us forward. It will help ensure that unsuspecting people like Martha Preston don't get ripped off.

We believe this is a moderate approach to correct the worst abuses, while preserving the benefits of class actions. It is both pro-consumer and pro-defendant. We believe it will make a difference.

Mr. HATCH. Mr. President, there is little doubt that serious problems exist within our Nation's judicial system, especially in the way that interstate class action lawsuits are handled and administered in local courtrooms across this country. Increasingly, parties to class actions have taken to forum shopping to pick sympathetic local courts where, more and more often, plaintiffs are offered coupon settlements and lawyers are awarded enormous fees.

According to recent studies, while Federal class action filings over the past 10 years have increased over 300 percent, class action filings in State courts have increased over 1,000 percent. However, interstate class actions involve more citizens in more States, more money, and more interstate commerce ramifications than any other type of civil litigation. They are the paradigm of what our Framers envisioned when they invented Federal diversity jurisdiction, as reflected in Article III of the Constitution. These State court statistics are even more troubling in light of the fact that many State courts have crushing caseloads and far fewer resources available to them than their Federal counterparts to manage these important and complex cases.

The primary reason that interstate class actions have remained in State court despite their complex nature is because it is relatively easy for plaintiffs' class attorneys to defeat both the statutory "complete diversity" requirement by adding non-diverse parties and the \$75,000 "amount in controversy" requirement by aggregating individual claims to be less than this amount. Interestingly, the "complete diversity" requirement was adopted by Congress in the late 1700s, well before the development of modern class action lawsuits.

Simply put, the Class Action Fairness Act would allow Federal courts to adjudicate class actions where the col-

lective amount in controversy is more than \$2 million, and where any member of the class of plaintiffs is from a different State than any defendant. This means that many State class actions may be removed to Federal court. Nonetheless, the bill does not extend Federal jurisdiction to encompass intrastate class actions, where the claims are governed primarily by the laws of the State in which the case is filed and the majority of the plaintiffs and the primary defendants are citizens of that State. So there is no federalism issue here. All the bill does is to protect constitutionally mandated diversity jurisdiction—"suits between Citizens of different States."

I am aware that there are those that say that the bill would "flood" Federal courts. But, again, according to Article III of the Constitution and our Founding fathers, these cases belong in Federal court. Critics making the judicial overload argument also ignore the fact that this bill does not require that interstate class actions be heard in Federal courts. It simply provides the option for either side. In jurisdictions where the State courts provide a relatively level playing field, there is no reason to believe that all class actions will be removed to Federal court.

I should also point out that this bill would not prohibit any class action from being filed. It is merely a process or procedural bill. It simply determines the court in which interstate class actions with significant national implications should be adjudicated—that is, in Federal court.

I urge my colleagues to adopt this common-sense legislation.

By Mr. McCONNELL:

S. 1714. A bill to provide for the installation of a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building: to the Committee on Governmental Affairs.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1714

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INSTALLATION OF PLAQUE TO HONOR DR. JAMES HARVEY EARLY.**

(a) IN GENERAL.—The United States Postmaster General shall install a plaque to honor Dr. James Harvey Early in the Williamsburg, Kentucky Post Office Building located at 1000 North Highway 23 West, Williamsburg, Kentucky 40769.

(b) CONTENTS OF PLAQUE.—The plaque installed under subsection (a) shall contain the following text:

"Dr. James Harvey Early was born on June 14, 1808 in Knox County, Kentucky. He was appointed postmaster of the first United States Post Office that was opened in the town of Whitley Courthouse, now Williamsburg, Kentucky in 1829. In 1844 he served in the Kentucky Legislature. Dr. Early married twice, first to Frances Ann Hammond, died

1860; and then to Rebecca Cummins Sammons, died 1914. Dr. Early died at home in Rockhold, Kentucky on May 24, 1885 at the age of 77."

By Mr. FRIST (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. DASCHLE, Mr. BOND, Mr. AKAKA, Mr. CHAFEE, Mr. BAYH, Ms. COLLINS, Mr. BIDEN, Mr. DOMENICI, Mr. BREAUX, Mr. DEWINE, Mrs. CARNAHAN, Mr. HAGEL, Mr. CLELAND, Mr. HUTCHINSON, Mrs. CLINTON, Mrs. HUTCHISON, Mr. CORZINE, Mr. ROBERTS, Mr. DODD, Ms. SNOWE, Mr. DURBIN, Mr. VOINOVICH, Mr. EDWARDS, Mr. WARNER, Mrs. FEINSTEIN, Mr. HARKIN, Mr. JEFFORDS, Mr. JOHNSON, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. TORRICELLI):

S. 1715. A bill to improve the ability of the United States to prepare for and respond to a biological threat or attack; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I am pleased to rise today on behalf of myself, Senator KENNEDY, and a number of our colleagues to introduce vitally important legislation, the "Bioterrorism Preparedness Act of 2001." This bipartisan bill, which represents the very best effort of a number of our colleagues in the Senate, responds to the threat of bioterrorism by focusing our Nation's efforts to prevent, prepare for and respond to any future bioterrorist attacks.

Events of recent weeks have made clear the danger we currently face. In the aftermath of the September 11 attacks on the World Trade Center and Pentagon, terrorists have used the mail to deliver anthrax to communities across America. In doing so, they have also spread fear across our great nation and have underscored the threats that bioterrorism poses. If they had employed a more sophisticated delivery mechanism, or weaponized smallpox or another communicable virus, our health care system may have been overwhelmed.

Last year, Congress enacted bipartisan legislation to revitalize our public health defenses at the local, State and national levels. The Frist-Kennedy "Public Health Threats and Emergencies Act of 2000" authorized a series of important initiatives to strengthen the Nation's public health system, improve hospital response capabilities, upgrade the rapid identification and early warning systems at the Centers for Disease Control and Prevention, CDC, improve the training of health professionals to diagnose and care for victims of bioterrorism, enhance our research and development capabilities, and take additional steps necessary to prevent, prepare for and respond to biological attacks.

Today's legislation, the "Bioterrorism Preparedness Act of 2001,"

builds on the foundation laid by the Public Health Threats Act, a foundation built on prevention, preparedness, and response.

The “Bioterrorism Preparedness Act” takes a number of steps to prepare our Nation for these threats. It includes important measures to improve our health system’s capacity to respond to bioterrorism, protect the Nation’s food supply, speed the development and production of vaccines and other countermeasures, enhance coordination of government agencies responsible for preparing for and responding to bioterrorism and increase our investment in fighting bioterrorism at the local, State, and national levels.

The bill authorizes roughly \$3.2 billion in fiscal year 2002 emergency funding toward these critical activities. I believe it is important that this funding be considered in the context of the existing agreement limiting overall appropriations this year to \$686 billion in addition to the \$40 billion emergency supplemental appropriations bill. I will work very hard to ensure that the priorities outlined in this authorization legislation are included within this framework.

The “Bioterrorism Preparedness Act of 2001” is a comprehensive bill that takes a major step toward better preparing our nation to respond to the special challenges posed by biological weapons. We have worked diligently with many of our colleagues and the administration over the several weeks, and I believe that the product of those efforts represents a strong bill that includes some of the best ideas of both Republicans and Democrats.

I know the bill is stronger due to the input of so many of our colleagues and the leadership and guidance of the administration, and I would like to thank several of my colleagues for their efforts. Specifically, I would like to thank Senator COLLINS for her contributions regarding food safety and the appropriate emphasis on children, Senator HUTCHINSON for his assistance with the provisions related to vaccine development and production, Senator ROBERTS and Majority Leader DASCHLE for their contributions to this bill in the area of agricultural safety, and many of our other colleagues who contributed in a bipartisan way—Senators GREGG, HAGEL, DEWINE, HATCH, MIKULSKI, DODD, and CLINTON.

I look forward to working with my colleagues to see that this important legislation becomes law this year.

I ask unanimous consent that a summary of the bill be printed in the RECORDS.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY—THE BIOTERRORISM PREPAREDNESS ACT OF 2001

The “Bioterrorism Preparedness Act of 2001” is designed to address gaps in our nation’s biodefense and surveillance system and our public health infrastructure. This new legislation builds on the foundation laid

by the “Public Health Threats and Emergencies Act of 2000” by authorizing additional measures to improve our health system’s capacity to respond to bioterrorism, protect the nation’s food supply, speed the development and production of vaccines and other countermeasures, enhance coordination of federal activities on bioterrorism, and increase our investment in fighting bioterrorism at the local, state, and national levels. The legislation would authorize approximately \$3.2 billion in funding for Fiscal Year 2002 (and such sums in years thereafter) toward these activities.

TITLE I—NATIONAL GOALS FOR BIOTERRORISM PREPAREDNESS

Title I of the “Bioterrorism Preparedness Act” states that “the United States should further develop and implement a coordinated strategy to prevent and, if necessary, to respond to biological threats or attacks.” It further states that it is the goal of Congress that this strategy should: (1) provide federal assistance to state and local governments in the event of a biological attack; (2) improve public health, hospital, laboratory, communications, and emergency response preparedness and responsiveness at the state and local levels; (3) rapidly develop and manufacture needed therapies, vaccines, and medical supplies; and (4) enhance the safety of the nation’s food supply and protect its agriculture from biological threats and attacks.

TITLE II—IMPROVING THE FEDERAL RESPONSE TO BIOTERRORISM

Title II requires the Secretary of Health and Human Services (HHS) to report to Congress within one year of enactment, and biennially thereafter, on progress made toward meeting the objectives of the Act. It provides statutory authorization for the strategic national pharmaceutical stockpile, provides additional resources to the Centers for Disease Control and Prevention (CDC) to carry out education and training initiatives and to improve the nation’s federal laboratory capacity, and establishes a National Disaster Medical Response System of volunteers to respond, at the Secretary’s direction, respond to national public health emergencies (with full liability protection, re-employment rights, and other worker protections for such volunteers similar to those currently provided to those who join the National Guard).

The bill further amends and clarifies the procedures for declaring a national public health emergency and expands the authority of the Secretary during the emergency period. In declaring such an emergency, the Secretary must notify Congress within 48 hours. Such emergency period may not be longer than 180 days, unless the Secretary determines otherwise and notifies Congress of such determination. During that emergency period, the Secretary may waive certain data submittal and reporting deadlines.

A recent report by the General Accounting Office raised concerns about the lack of coordination of federal anti-bioterrorism efforts. Therefore, the bill contains a number of measures to enhance coordination and cooperation among various federal agencies. Title II establishes an Assistant Secretary for Emergency Preparedness at HHS to coordinate all functions within the Department relating to emergency preparedness, including preparing for and responding to biological threats and attacks.

Title II also creates an interdepartmental Working Group on Bioterrorism that includes the Secretaries of HHS, Defense, Veteran’s Affairs, Labor, and Agriculture, the Director of the Federal Emergency Management Agency, the Attorney General of the United States, and other appropriate federal officials. The Working Group consolidates

and streamlines the functions of two existing working groups first established under the “Public Health Threats and Emergencies Act of 2000.” It is responsible for coordinating the development of bioterrorism countermeasures, research on pathogens likely to be used in a biological attack, shared standards for equipment to detect and protect against from biological pathogens, national preparedness and response for biological threats or attacks, and other matters.

Title II also establishes two advisory committees to the Secretary. The National Task Force on Children and Terrorism will report on measures necessary to ensure that the health needs of children are met in preparing for and responding to any potential biological attack or event. The Emergency Public Information and Communications Task Force will report on appropriate ways to communicate to the public information regarding bioterrorism. Both of these committees sunset after one year.

The title also contains a Congressional recommendation that there be established an official federal internet website on bioterrorism to provide information to the public, health professionals, and others on matters relevant to bioterrorism. The title further requires that states have a coordinated plan for providing information relevant to bioterrorism to the public.

Additionally, Title II helps the federal government better track and control biological agents and toxins. The Secretary of HHS is required to review and update a list of biological agents and toxins that could pose a severe threat to public health and safety and to enhance regulations regarding the possession, use, and transfer of such agents or toxins. Violations of these regulations could trigger civil penalties of up to \$500,000, and criminal sanctions may be imposed. Existing law already regulates the transfer of these pathogens.

TITLE III—IMPROVING STATE AND LOCAL PREPAREDNESS CAPABILITIES

Numerous reports in recent years have found the nation’s public health infrastructure lacking in its ability to respond to biological threats or other emergencies. For example, nearly 20 percent of local public health departments have no e-mail capability, and fewer than half have high-speed Internet or broadcast facsimile transmission capabilities. Before September 11, only one in five U.S. hospitals had bioterrorism preparedness plans in place.

Title III addresses this situation by including several enhanced grant programs to improve state and local public health preparedness. In addition to converting the current public health core capacity grants established under the “Public Health Threats and Emergencies Act of 2000” to non-competitive grants, the bill replaces the current 319F competitive bioterrorism grant with a new state bioterrorism emergency program that provides resources to states based on population and that would guarantee each state a minimum level of funding for preparedness activities. States must develop bioterrorism preparedness plans to be eligible for such funding. Activities funded under this grant include conducting an assessment of core public health capacities, achieving the core public health capacities, and fulfilling the bioterrorism preparedness plan. This program would only be authorized for two years.

The bill also establishes a new grant program for hospitals that are part of consortia with public health agencies, and counties or cities. To be eligible for the grant, the hospital’s grant proposal must be consistent with their state’s bioterrorism preparedness plan. Using these grants, hospitals with acquire the capacity to serve as regional resources during a bioterrorist attack. This program is authorized for five years.

## TITLE IV—DEVELOPING NEW COUNTERMEASURE AGAINST BIOTERRORISM

To better respond to bioterrorism, Title IV expands our nation's stockpile of smallpox vaccine and critical pharmaceuticals and devices. The bill also expands research on biological agents and toxins, as well as new treatments and vaccines for such agents and toxins.

Since the effectiveness of vaccines, drugs, and therapeutics for many biological agents and toxins often may not ethically be tested in humans, Title IV ensures that the Food and Drug Administration (FDA) will finalize by a date certain its rule regarding the approval of new countermeasures on the basis of animal data. Priority countermeasures will also be given enhanced consideration for expedited review by the FDA.

Because of the lack of or limitations on a market for vaccines for these agents and toxins, Title IV gives the Secretary of HHS authority to enter into long-term contracts with sponsors to "guarantee" that the government will purchase a certain quantity of a vaccine at a certain price. The government has the authority, through an existing Executive Order, to ensure that sponsors through these contracts will be indemnified by the government for the development, manufacture and use of the product as prescribed in the contract.

Title IV also provides a limited antitrust exemption to allow potential sponsors to discuss and agree upon how to develop, manufacture, and produce new countermeasures, including vaccines, and drugs. Federal Trade Commission and the Department of Justice approval of such agreements is required to ensure such agreements are not anti-competitive.

## TITLE V—PROTECTING OUR NATION'S FOOD SUPPLY

With 57,000 establishments under its jurisdiction and only 700-800 food inspectors, including 175 import inspectors for more than 300 ports of entry, FDA needs increased resources for inspections of imported food. The President's emergency relief budget included a request for \$61 million to enable FDA to hire 410 new inspectors, lab specialists and other experts, as well as invest in new technology and equipment to monitor food imports.

Title V grants FDA needed authorities to ensure the safety of domestic and imported food. It allows FDA to use qualified employees from other agencies and departments to help conduct food inspections. Any domestic or foreign facility that manufacturers or processes food for use in the U.S. must register with FDA. Importers must provide at least four hours notice of the food, the country of origin, and the amount of food to be imported. FDA also receives authority to prevent "port-shopping" by making food shipments denied entry at one U.S. port to ensure such shipments to do reappear at another U.S. port.

The bill gives additional tools to FDA to ensure proper records are maintained by those who manufacture, process, pack, transport, distribute, receive, hold or import food. The FDA's ability to inspect such records will strengthen their ability to trace the source and chain of distribution of food and to determine the scope and cause of the adulteration or misbranding that presents a threat of serious adverse health consequences or death to humans or animals. Importantly, the bill also enables FDA to detain food after an inspection for a limited period of time if such food is believed to present a threat of serious adverse health consequences or death to humans or animals. The FDA may also debar imports from a person who engages in a pattern of seeking to import such food.

Title V also includes several measures to help safeguard the nation's agriculture industry from the threats of bioterrorism. Toward this end, it contains a series of grants and incentives to help encourage the development of vaccines and antidotes to protect the nation's food supply, livestock, or crops, as well as preventing crop and livestock diseases from finding their way to our fields and feedlots.

It also authorizes emergency funding to update and modernize USDA research facilities at the Plum Island Animal Disease Laboratory in New York, the National Animal Disease Center in Iowa, the Southwest Poultry Research Laboratory in Georgia, and the Animal Disease Research Laboratory in Wyoming. Also, it funds training and implements a rapid response strategy through a consortium of universities, the USDA, and agricultural industry groups.

Mr. KENNEDY. Mr. President, it is a privilege to join my distinguished colleague, Senator FRIST, to introduce this bipartisan legislation to respond to one of the most severe dangers of terrorism, the grave threat of bioterrorist attacks. I commend Senator FRIST for his impressive continuing leadership on this vital issue.

We are all well aware of the emergency we face. In recent weeks, 15 anthrax cases stretched our health care system to the breaking point. A larger attack could be a disaster for whole communities of Americans. The anthrax attack of the past weeks has sounded the alarm. The clock is ticking on America's preparedness for a future attack. We've had the clearest possible warning, and we can't afford to ignore it. We know that hundreds, even millions, of lives may be at stake—and we're not ready yet.

The needs are great. A summit meeting of experts in bioterrorism and public health concluded that \$835 million was needed just to address the most pressing needs for public health at the State and local levels.

The National Governor's Association has said that states need \$2 billion to improve readiness for bioterrorism. John Hopkins is spending \$7.5 million to improve its ability to serve as a regional bioterrorism resource for Baltimore. Equipping just one hospital to this level in each of 100 cities across America would cost \$750 million.

Clearly, our legislation is an important downpayment on preparedness. But we must make sure that our commitment to achieving full readiness is sustained in the weeks and months to come.

Since September 11, the American people have supported our commitment of billions of dollars and thousands of troops to battle terrorism abroad. But Americans also want to be safe at home. We have an obligation to every American that we will do no less to protect them against terrorism at home than we do to fight terrorism abroad.

The need for help at the State and local level is especially urgent. In the first 3 weeks of October alone, State health departments spent a quarter billion dollars responding to the anthrax

attack. Many departments were forced to put aside other major public health responsibilities.

Hospitals across the country have immediate needs. According to the American Public Health Association, hospitals are hard-pressed even during a heavy flu season, and could not cope with a lethal contagious disease like smallpox.

The Bioterrorism Preparedness Act we are proposing will address these deficiencies. It provides new resources for bioterrorism preparedness to the States under a formula that guarantees help to each State. These resources will be available to improve hospital readiness, equip emergency personnel, enhance State planning, and strengthen the ability of public health agencies to detect and contain dangerous disease outbreaks.

Federal stockpiles of antibiotics, vaccines, and other medical supplies are an essential part of the national response. We have a strategic petroleum reserve to safeguard our energy supply in times of crisis. We need a strategic pharmaceutical reserve as well, to ensure that we have the medicines and vaccines stockpiled to respond to bioterrorist attacks. Our legislation establishes this reserve, and authorizes the development of sufficient smallpox and other vaccines to meet the needs of the entire U.S. population.

The legislation will also help protect the safety of the food supply, through increased research and surveillance of dangerous agricultural pathogens.

Every day we delay means that States can't buy the equipment to improve their labs and hire the personnel they need. It means another day in which hospitals can't purchase stocks of antibiotics or add emergency room capacity. It means further delay in building up pharmaceutical stockpiles and producing essential vaccines. We face an extraordinary threat, and we must take immediate action to combat it.

Our legislation draws on the work and suggestions of numerous colleagues on both sides of the aisle. One of the important areas addressed in the legislation is the threat of agricultural bioterrorism. Deliberate introduction of animal diseases could pose grave dangers to the safety of the food supply. Such acts of agricultural bioterrorism would also be economically devastating. The outbreaks of "mad cow" disease in Europe cost over \$10 billion, and the foot and mouth outbreak cost billions more. We must guard against this danger.

Protecting the safety of the food supply is a central concern in addressing the problem of bioterrorism. Senator CLINTON, Senator MIKULSKI, Senator HARKIN, Senator COLLINS and Senator DURBIN have all contributed thoughtful proposals about food safety. Our bill will enable FDA and USDA to protect the Nation's food supply more effectively.

We're grateful for the leadership of other Senators who have made significant contributions to this legislation. Senator BAYH and Senator EDWARDS contributed important proposals on providing block grants to states, so that each State will be able to increase its preparedness. Their proposal ensures that each state will receive at least a minimum level of funding.

We're also grateful for the contributions that many of our distinguished colleagues have made to address the special needs of children. Senator DODD, Senator COLLINS, Senator CLINTON, Senator DEWINE and Senator MURRAY have emphasized the crucial needs of children relating to bioterrorism. The legislation includes important initiatives to provide for the special needs of children and other vulnerable populations.

The events of recent weeks have shown the importance of effective communication with the public. Our legislation incorporates proposals on improving communication offered by several of our colleagues. Senator CARNAHAN has recognized the importance of the internet in providing information to the public. The legislation includes the provisions of her legislation to establish the official Federal internet site on bioterrorism, to help inform the public.

Senator MIKULSKI also contributed provisions on improving communication with the public. The high level, blue ribbon task force can provide vitally needed insights on how best to provide information to the public. Senator MIKULSKI also recommended ways to ensure that states have coordinated plans for communicating information about bioterrorism and other emergencies to the public.

The Centers for Disease Control and Prevention have a leading role in responding to bioterrorism. Senator CLELAND has been an effective and skillful advocate for the needs of the CDC. Our legislation today incorporates many of the proposals introduced by Senator CLELAND in his legislation on public health authorities.

Hospitals are also one of the keys to an effective response to bioterrorism. We must do more to strengthen the ability of the nation's hospitals to cope with bioterrorism. Senator CORZINE has proposed to strengthen designated hospitals to serve as regional resources for bioterrorism preparedness. I commend him for his thoughtful proposal, which we have incorporated into the legislation.

We must also ensure that we monitor dangerous biological agents that might be used for bioterrorism. There is a serious loophole in current regulations, and we are grateful for the proposals offered by Senator DURBIN and Senator FEINSTEIN to achieve more effective control of these pathogens.

In a biological threat or attack, mental health care will be extremely important. We are indebted to Senator WELLSTONE for his skillful and compas-

sionate advocacy for the needs of those with mental illnesses. In the event of a terrorist attack, thousands of persons would have mental health needs, and our legislation includes key proposals by Senator WELLSTONE to address these needs.

Mobilizing the nation's pharmaceutical and biotech companies so that they can fully contribute to this effort is critical. Senators LEAHY, HATCH, DEWINE, and KOHL made thoughtful contributions to the antitrust provisions of the bill, which will help encourage a helpful public-private partnership to combat bioterrorism.

This legislation is urgent because the need to prepare for a bioterrorist attack is urgent. I look forward to its prompt passage so that the American people can have the protection they need.

Mr. BIDEN. Mr. President, I am proud to be an original cosponsor of the Bioterrorism Preparedness Act, a comprehensive package of measures to improve our Nation's capability to respond to a future biological weapons attack against the United States. This bill, introduced by Senators KENNEDY and FRIST, would authorize \$3.25 billion in funding for fiscal year 2002, a substantial boost in resources for the measures outlined in the bill. I applaud Senators KENNEDY and FRIST for coming together in a bipartisan spirit and putting forth a bill that takes the first important step towards truly protecting our Nation against future acts of bioterrorism. When Sam Nunn testified in early September before the Foreign Relations Committee on the threat posed by biological weapons, he was very clear, bioterrorism is a direct threat to the national security of the United States and we need to invest the necessary resources to counter this threat accordingly.

As troubling as the recent spate of anthrax by mail attacks was, we were very fortunate that this was a comparatively small-scale attack. Seventeen Americans contracted inhalation or cutaneous anthrax; unfortunately, four individuals died. The next time a biological weapons attack occurs, we may not be so fortunate in dealing with a small number of victims who emerge over a period of weeks. Instead, we may face thousands of victims flooding local emergency rooms and overwhelming our hospitals in a matter of hours. Let's be real here, the anthrax attacks, as small-scale as they have been, have greatly stressed our national public health infrastructure. One out of every eight Centers for Disease Control employees at their headquarters in Atlanta is working on the current anthrax outbreak, forcing the CDC to sideline other essential core activities for the time being. Folks, what we have just been through is small potatoes compared to what we potentially will face. Plain and simple, we can't afford to be so underprepared in the future.

Among Sam Nunn's recommendations for countering biological ter-

rorism, he declared, "We need to recognize the central role of public health and medicine in this effort and engage these professionals fully as partners on the national security team." There are many good things in this bill, ranging from the expansion of the National Pharmaceutical Stockpile to efforts to enhance food safety, but I am especially please that the Bioterrorism Preparedness Act provides direct grants to improve the public health infrastructure at the State and local level. Our doctors, nurses, emergency medical technicians, and other public health personnel are our eyes and ears on the ground for detecting a biological weapons attack. We can't afford not to do everything we can to make sure they have the necessary tools and resources in containing any BW attack. This bill goes a long way towards fulfilling that core commitment.

So I strongly support the Bioterrorism Preparedness Act and I look forward to its early passage and entry into law before the Congress adjourns for the year. But I am deeply concerned that the bill ignores the international aspects to any effective response to potential bioterrorism. As chairman of the Foreign Relations Committee, I know that we cannot address the threat of bioterrorism within the borders of the United States alone.

Let me be clear, a biological weapons attack need not originate in the United States to pose a threat to our Nation. A dangerous pathogen deliberately released anywhere in the world can quickly spread to the United States in a matter of days, if not hours. The scope and frequency of international trade, travel, and migration patterns offer unlimited opportunities for pathogens to spread across national borders and even to move from one continent to another. Therefore, we need to view all infectious disease epidemics, wherever they occur, as a potential threat to all nations.

It is for this reason that Senator HELMS, the distinguished ranking member on the Foreign Relations Committee, and I worked together in seeking to insert provisions in this bill to enhance global disease monitoring and surveillance. With Senator KENNEDY's strong backing, we wanted to ensure the full availability of information, i.e. disease characteristics, pathogen strains, transmission patterns, on infectious epidemics overseas that may provide clues indicating possible illegal biological weapons use or research. Even if an infectious disease outbreak occurs naturally, improved monitoring and surveillance can help contain the epidemic and tip off scientists and public health professionals to new diseases that may be used as biological weapons in the future.

The World Health Organization, WHO, established a formal worldwide network last year, called the Global Alert and Response Network, to monitor and track infectious disease outbreaks in every region of the world.

The WHO has done an impressive job so far working on a shoestring budget. But this global network is only as good as its components, individual nations. Many developing nations simply do not possess the personnel, laboratory equipment or public health infrastructure to track disease patterns and detect traditional and emerging pathogens. In fact, these nations often just seek to keep up in treating those who have already fallen ill.

Doctors and nurses in many developing countries only treat a small fraction of the patients who may be ill with a specific infectious disease—in effect, they are only witnessing the tip of a potentially much larger iceberg. According to the National Intelligence Council, governments in developing countries in Africa and Asia have established rudimentary or no systems at all for disease surveillance, response or prevention. For example, in 1994, an outbreak of plague occurred in India, resulting in 56 deaths and billions of dollars of economic damage as trade and travel with India ground to a halt. The plague outbreak was so severe because Indian authorities did not catch the epidemic in its early stages. Authorities had ignored or failed to respond to routine complaints of flea infestation, a sure warning signal for plague.

Owing to the lack of resources, developing nations are the weak spots in global disease monitoring and surveillance. Without shoring up these nations' capabilities to detect and contain disease outbreaks, we are leaving the entire world vulnerable to either a deliberate biological weapons attack or an especially virulent naturally occurring epidemic.

Therefore, Senator HELMS and I worked together in proposing language for this bill to authorize \$150 million in fiscal year 02 and fiscal year 03 to strengthen the capabilities of individual nations in the developing world to detect, diagnose, and contain infectious disease epidemics. The proposed title would have helped train entry-level public health professionals from developing countries and provide grants for the acquisition of modern laboratory and communications equipment essential to any effective disease surveillance network. Upon first glance, \$150 million is chump change in a bill that authorizes more than \$3 billion. But I have been assured by public health experts that \$150 million alone can go a long ways in making sure that developing countries acquire the basic disease surveillance and monitoring capabilities to effectively contribute to the WHO's global network. The bottom line is that these provisions would have offered an inexpensive, commonsense solution to a problem of global proportions.

I was greatly disappointed, therefore, when the White House weighed in late in the negotiations and expressed its strong insistence that the language Senator HELMS and I worked out

should be dropped from this bill. While administration officials assured me that they liked our ideas, they asserted any bioterrorism bill passed this year should only include those provisions that carry a domestic focus and meet the test of urgency.

Let me respond to those arguments. It is extremely short-sighted to draw artificial boundaries between "domestic" and "international" responses to bioterrorism. I have already pointed out that pathogens deliberately released in an attack anywhere in the world can quickly spread to the United States if we are unable to contain the epidemic at its source. The National Intelligence Council has concluded that infectious diseases are a real threat to U.S. national security. To ignore the international arena in favor of domestic solutions alone is profoundly misguided. As for urgency, I can think of few things more urgent than taking the necessary steps to respond to bioterrorism in a global context. Americans have been repeatedly warned by their government leaders to expect other terrorist attacks in the near future; we cannot limit ourselves to thinking these attacks will occur in a conventional form or location. Just this fall, the WHO has had to respond to natural outbreaks of hemorrhagic fever in Pakistan and yellow fever in the Ivory Coast. An effective global disease surveillance network cannot come into existence soon enough.

I therefore intend to offer an amendment, when this bill comes to the floor later this year, to re-insert the provisions to enhance the capabilities of developing nations to track, diagnose, and contain disease outbreaks resulting from both BW attacks and naturally occurring epidemics. It is not my intention to slow down this overall bill or raise any obstacles; on the contrary, I want to see comprehensive bioterrorism legislation reach the President's desk this year. But we cannot address the full scope of the threat posed by biological weapons without including the international component of the solution.

Let me close with an excerpt of testimony from the Foreign Relations Committee hearing on bioterrorism in September from Dr. D.A. Henderson, the man who spearheaded the international campaign to eradicate smallpox in the 1970s. Today, he is the director of the newly-formed Office of Emergency Preparedness in the Department of Health and Human Services, which has the mandate to help organize the Federal Government's response to future bioterrorist attacks. Dr. Henderson was very clear on the value of global disease surveillance: "In cooperation with the WHO and other countries, we need to strengthen greatly our intelligence gathering capability. A focus on international surveillance and on scientist-to-scientist communication will be necessary if we are to have an early warning about the possible development and production of biological

weapons by rogue nations or groups." I am hopeful that a majority of my colleagues will recognize we cannot leave the rest of the world to fend for itself in combating biological weapons and infectious diseases in general if we are to ensure America's security as well.

Mrs. CARNAHAN. Mr. President, I rise in strong support of the Bioterrorism Preparedness Act. I am proud to join Senator KENNEDY, Senator FRIST, and Senator GREGG as an original co-sponsor of this timely bipartisan legislation. Senator KENNEDY and Senator FRIST have been leaders on this issue even before the events of September 11. In June of 2000, they introduced the Public Health Threats and Emergencies Act, which was enacted into law last year.

The recent anthrax attacks have shown that Congress must do much more to prepare our country for possible future bioterrorist attacks. We need to ensure that all of our communities across the country, both rural and urban, are equipped to respond to a bioterrorism attack in the event that such an unfortunate act should occur.

The Bioterrorism Preparedness Act would put in place a comprehensive national strategy to combat bioterrorism. This legislation would improve preparedness at the Federal, State, and local levels. It would increase investments in public health surveillance systems and public health laboratories to improve our ability to detect an attack. Moreover, the Act would strengthen our ability to contain the spread of a bioterrorism attack by increasing the Nation's stockpile of vaccines and treatments.

One critical component of a national strategy on bioterrorism is communication between the government and the public. Americans have many questions about what bioterrorism is and how they can protect their families. They need a reliable source of information where they can go to get accurate answers to their questions, thereby alleviating some of their anxiety and fears. Several weeks ago, I introduced the Bioterrorism Awareness Act, S. 1548, to address this need. S. 1548 calls for the creation of a single website containing information on bioterrorism that would serve as the official federal government source of information for the public. This website will provide "one-stop shopping" for people who need to find answers to questions about bioterrorism. For so many of us, the fear of bioterrorism is a fear of the unknown. Knowledge is power, and the more knowledge we have about terrorism, the more power we have to overcome our fears.

I am pleased that my proposal has been included as a key part of the national communications strategy in the Bioterrorism Preparedness Act. This legislation calls for the creation of a new official Federal website to serve as the definitive source of bioterrorism for the public and other targeted populations. For example, farmers and others individuals involved in the Nation's

food supply need accurate information on bioterrorism. This website would include information geared specifically towards the needs of agricultural workers and the unique challenges they might encounter in the event of a bioterrorism attack on our food supply. I encourage the development of this website as soon as possible.

The Bioterrorism Preparedness Act also contains other provisions aimed at protecting our food supply. It recognizes that our Nation's food supply cannot be left vulnerable to a terrorist attack. The bill would authorize funds to increase the Food and Drug Administration's authority to perform food inspections. It would also authorize funds to improve security at facilities belonging to the Department of Agriculture, the Department of Health and Human Services, and universities across the country, where potential animal and plant pathogens are housed or researched.

I know that farmers in Missouri, as well as across the country, are concerned about protecting their crops and livestock. A terrorist attack on these targets has the potential to not only disrupt the food supply in the U.S., but throughout the world. The potential economic impact on farmers' livelihood would be devastating to them and their families. The food safety provisions in this bill go far in protecting this essential national resource.

Another key component in dealing with bioterrorism is providing states with the resources to be equipped to respond. The bill would award block grants to states for improving preparedness and coordination in the event of an attack. These grants would allow States to improve their surveillance and detection capabilities. Further, they would allow states to bolster their public health infrastructure to best protect the public from an attack.

These block grants are especially important because when it comes to protecting our nation from terrorism, the Federal Government cannot do it alone. We need the cooperation and support of State and local governments to protect the citizens at all levels. These funds will help ensure that State governments have the resources they need to prevent and respond to a bioterrorism attack.

This bipartisan legislation would allow our Nation to improve its ability to prevent, detect, contain, and respond to a possible bioterrorist attack. In this time of uncertainty, preparation is our best defense. This bill provides the necessary resources to strengthen that defense throughout all levels of government—Federal, State, and local. I urge my colleagues to support the "Bioterrorism Preparedness Act" and to act on it expeditiously.

Mrs. HUTCHISON. Mr. President, along with Senators FRIST, ROBERTS, COLLINS, BOND, HAGEL, SNOWE, DEWINE, and other colleagues, I rise today in support of the Bioterrorism Preparedness Act of 2001.

As the fight against terrorism heats up, it is critical that we dedicate sufficient resources to the growing threat of bioterrorism. This legislation will enhance the capabilities of Federal, State, and local governments to coordinate emergency preparedness efforts, stockpile vaccines and medical supplies, link channels of communication, modernize biosecurity facilities, and ensure the safety of America's health and food supply. In other words, it will help the U.S. protect its citizens.

I am proud to have worked with my colleague, Senator ROBERTS, to address the concerns about our food supply and vital agricultural economies. The agricultural bioterrorism provisions in this legislation will authorize the U.S. Department of Agriculture, USDA, to strengthen its capacities to identify, prepare for, and respond to such bioterrorism threats to our farms, ranches, livestock, poultry, crops, and food processing, packaging, and distribution facilities and systems.

We have a clear priority to ensure the safety of our food, and to maintain the public's confidence regarding this. To do so, we must identify and quickly control the threats to our food supply, currently the world's safest and most abundant and affordable.

Bioterrorism has always been a question of when it would strike, not could it occur, especially since the cold war. During the cold war, it was known that the former Soviet Union had a bio-weapons program that included bio-agents aimed at agriculture, while during the gulf war our own soldiers have shown evidence of possible use of biological weapons. From the terrorist attacks on Japan's subway system to the foot-and-mouth and "mad-cow" disease outbreaks in Europe to the recent anthrax attacks here, even the public is now acutely aware of this threat.

For this reason, this bill is critical, both for the results it will achieve and the reassurance it will provide. USDA will be expanded to enhance inspection capability, implement new information technology, and develop methods for rapid detection and identification of plant and animal disease. USDA's Veterinary Services will be authorized to establish cooperative agreements with state animal health commissions and regulatory agencies for livestock and poultry health, and private veterinary practitioners to enhance its ability to respond to outbreaks of animal disease.

We must emphasize and promote collaboration to strengthen America's research and development capacity. Therefore, USDA is instructed to establish a Consortium for Countermeasures Against Agricultural Bioterrorism to form long-term programs of research and development to enhance the biosecurity of U.S. Agriculture. America's institutes of higher education that have a demonstrated expertise in animal and plant disease research, strong linkages with diagnostic laboratories, and strong coordination with state cooperative extension pro-

grams will provide the resources and expertise that will prove invaluable in the war on agricultural bioterrorism.

This is the first modern war where the front lines lie on our own shores, farms and fields, but I know we are up to the challenge, especially as Texas will proudly serve as one of the States on the first lines of defense for our entire country. States where agriculture is critical are vulnerable to a bioterrorism attack, but they will also prove invaluable in the war on bioterrorism when they provide the first evidence of an attack.

To protect our citizens, our economy and our food supply, I urge my colleagues to support the Bioterrorism Preparedness Act of 2001.

By Mr. KERRY (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. INOUE, and Mr. AKAKA):

S. 1716. A bill to speed national action to address global climate change, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KERRY. Mr. President, I rise before you today to introduce the Global Climate Change Act of 2001. I am pleased to have Senators STEVENS, HOLLINGS, INOUE, and AKAKA join me as original cosponsors.

We face a fundamental environmental challenge. Scientists have warned that pollution and deforestation are raising atmospheric concentrations of greenhouse gases, raising global temperatures and altering the world's climate system with adverse and potentially catastrophic implications for the global environment. And, while sea levels rise, species extinction, drought, disease migration and other potential impacts cannot be known with certainty, we know enough to understand that the threat of harm is real and that worst-case scenarios under current "business-as-usual" practices are disastrous.

The best indicator that other nations believe action is desperately overdue is the conclusion of an agreement to implement the Kyoto Protocol last week in Marrakesh, Morocco. Incredibly, the Marrakesh Accords, under which rules for compliance and international greenhouse gas emissions trading were reached, were concluded without U.S. support.

Although the Administration abandoned the Kyoto process in March, to our national detriment, it is critical that the United States map out a clear path to reduce greenhouse gas emissions across the economy. In the Commerce Committee we have held several hearings to examine the science and the solutions to global warming. We have heard testimony about the potential for wind and other renewable energy to provide our nation the power it needs emissions free. We have heard from companies leading the push for hydrogen fuel cells to provide distributed generation and transportation energy with low emissions. And we've

heard from automakers designing the technology for more fuel efficient cars. The Commerce Committee has jurisdiction over of the Corporate Average Fuel Economy, CAFE, program and will continue a series of hearings on the issue that was delayed by the attacks of September 11. The United States must assert itself as a leader in research, development and deployment of these and other technologies.

The Global Climate Change Act of 2001 would help us move down a path of scientific understanding, research, policy innovation and technological innovation. The bill will complement other legislation under consideration in other Senate committees for reducing our greenhouse gas emissions, as well as legislation to improve CAFE in the Commerce Committee. The Global Climate Change Act of 2001 will also provide a solid technical basis upon which to build any future greenhouse emissions tracking, reduction, or trading programs.

The bill contains provisions aimed at bringing the world-class science, technology, and planning expertise of the National Oceanic and Atmospheric Administration, NOAA, the National Institute of Standards and Technology, NIST, and other Department of Commerce programs to bear on this problem, whether it is in climate observation, measurement and verification, information management, modeling and monitoring, technology development and transfer, or hazards planning and prevention.

First, the bill would endorse the elevation of climate change issues in the Administration, identifying the Office of Science and Technology Policy, OSTP, as the coordinating entity in the White House. An interagency task force on global climate change action chaired by the Secretary of Commerce would be responsible for developing a multi-faceted climate change action strategy, including development of mitigation approaches.

Second, it would create an emissions reporting system to ensure accurate measurement, reporting, and verification of greenhouse gas emissions, which is essential to any efforts to reduce our emissions. The bill utilizes the technical capabilities of the NIST and NOAA to establish uniform and credible new measurement methods and technologies. It establishes a mandatory reporting system for greenhouse gas emissions for entities operating in the U.S. with significant emissions. The system will maximize completeness, accuracy and transparency and minimize costs for covered entities. It will be designed to ensure interoperability of any U.S., state or international system of reporting and trading greenhouse gas emissions. It would also require Commerce to issue annual reports showing greenhouse gas emissions and trends, including areas where reductions have occurred.

Third, the bill would ensure that we in Congress get the best independent

scientific and technical expertise in our climate change oversight role. The bill would create a Science and Technology Assessment Service that would provide ongoing science and technology advice to Congress. Since the Office of Technology Assessment, OTA, was eliminated in 1995, experts agree that Congress has suffered from lack of ongoing, credible advice. While some objected to the OTA structure, all agree that expert technical advice for Congress is essential to ensuring we hold up our end in efforts to make progress on this important issue. Congressional requests for advice are overburdening the National Academy of Sciences and threatening to compromise its independent stature. The bill would economize on resources and personnel by utilizing the administrative services of the Library of Congress and the expertise of the National Research Council, and provide an ongoing separate service to Congress that will not threaten compromise NAS's independent role.

Fourth, the bill revises the Global Change Research Act of 1990 and the National Climate Program Act, so that interagency and Commerce Department programs focus on improving detection, modeling and regional impact assessments and are better managed to provide useful information to government decisionmakers and managers. In addition, the legislative changes would direct improvements in atmospheric monitoring and establish a new integrated coastal and ocean observing system to ensure we understand and predict the role of oceans in climate. Finally, it would create an integrated program office for the USGCRP within the Office of Science and Technology Policy to ensure budget coordination, using models established under the multiagency National Oceanographic Partnership Program and the NPOESS, polar satellite, convergence process.

Fifth, the bill addresses a critical component of reducing greenhouse gas emissions: technology innovation. The bill is aimed at increasing the Department of Commerce's technology innovation role in reducing greenhouse gas emissions. Specifically, it would utilize the Advanced Technology Program, ATP, to promote and commercialize energy efficient technologies and the Manufacturing Extension Program for small manufacturers. This section would also direct NIST to develop methods and technologies, including process improvements, that can be used in a variety of sectors to reduce production of greenhouse gases.

Finally, we must admit that even if we stopped all greenhouse gas emissions tomorrow, the effects of climate change and variability will not end. It is in our interest to undertake assessments and actions now that will help us address safety and infrastructure issues that will likely accompany climate variability and change in the future. There is currently no way for State governments or coastal commu-

nities to plan for change on a 20-50 year time horizon. The bill would require NOAA to evaluate vulnerability of regions of the United States, particularly coastal regions, to effects of climate change, including drought and sea level rise, and develop a strategy for helping states deal with the issues. The bill also directs NOAA to work with NASS to develop remote sensing technologies that will help coastal managers identify hazards and make intelligent planning decisions.

This legislation neatly rolls into one package key components of any national plan to address climate change: coordinated research, monitoring, reporting and verification, mitigation technology, impact assessment, and adaptation planning. This package is but one of many I hope to see my colleagues in Congress develop to help the United States reduce the threat of global climate change now. The Climate Change meetings in Marrakesh last week show that other nations are ready to act. We can, and must, do the same, even without leadership from this Administration.

Mr. HOLLINGS. Mr. President, I am pleased to join Senator KERRY as a cosponsor of the Global Climate Change Act of 2001. The Senate Commerce Committee has worked hard to ensure that the Federal Government has the best research and information possible about global warming, as well as other types of climate changes. Our investments are bearing fruit and we are identifying ways to focus our research to help us make decisions now and in the decades ahead.

During the 1980s, a number of us on the Committee became increasingly concerned about the potential threat of global warming and loss of the ozone layer. In 1989, I sponsored the National Global Change Research Act, which attracted support from many members still serving on the Commerce Committee. In 1990, after numerous hearings and roundtable discussions, Congress enacted the legislation, thereby creating the U.S. Global Climate Research Program.

When we passed the Global Change Research Act, we knew it was the first step in investigating a very complex problem. We placed a lot of responsibility in NOAA, the scientific agency best suited to monitor and predict ocean and atmospheric processes. We need to renew this ocean research commitment to ensure we better understand the oceans, the engines of climate. The so-called "wild card" of the climate system, the oceans are capable of dramatic climate surprises we should strive to comprehend.

I am glad to report that the research accomplished under the National Global Change Research Act has led to increased understanding of global climate change, as well as regional climate phenomena like El Nino/Southern Oscillation, ENSO. We now have a better understanding of how the Earth's oceans, atmosphere, and land surface

function together as a dynamic system, but we cannot stop there. Only recently, NOAA measured an important increase in temperature in all the world's oceans over a 40 year period. We need to understand the causes and how that will affect us. All this research ensures that federal and state decision-makers get better information and tools to cope with such climate related problems as food supply, energy allocation, and water resources.

While we have learned an astonishing amount about climate and other earth/ocean interactions in only a decade, we have other critical questions that require further research to answer. Many of these questions are relevant not only to improving our scientific understanding, but also to contributing to our future social and economic well-being. For example, climate anomalies during the past two years, most directly related to the 1997–1998 El Nino event, have accounted for over \$30 billion in impacts worldwide. When impacts from the recent floods in China are included, these direct losses could rise to \$60 billion. This most recent El Nino claimed 21,000 lives, displaced 4.5 million people, and affected 82 million acres of land through severe flood, drought, and fire. When we better understand the global climate system, and its relationship to regional climate events like El Nino, we may be able to find ways, such as improved forecasting and early warning—to avoid some of the severe impacts.

Understanding these and other impacts of climate change at the regional level is a critical step in preparing for these changes. We must maintain our commitment to research and further refine our existing modeling capabilities. The second critical need is planning for sea level rise and other inevitable results of climate change. It is costly in human lives and real dollars to manage our response in a crisis mode. Just as we needed to modernize our National Weather Service, we need to strengthen and modernize our National Climate Service, which can help the U.S. predict and plan for climate events. This includes establishing a national ocean and coastal observing system using the expertise and resources of a variety of federal agencies. In addition, this bill will help our coastal communities at risk from future climate-related hazards create plans that will help us adapt to such changes without catastrophic disruptions experienced in Alaska by my friend Senator STEVENS.

Not only do we need continued support for technological research and development, we must also consider the method in which this information is delivered to Congress. Before it was abolished in 1995, the Office of Technology Assessment, OTA, was responsible for providing Congress with balanced, independent scientific and technological advice. Since 1995, the function of the National Academy complex, particularly the National Research

Council, NRC, has been forced to expand its role in providing research and information to Congress. However, the NRC studies have their limitations. The reports, often slow and expensive, provide limited opportunity for formal input and review by affected parties. Furthermore, unlike OTA, they often make specific recommendations rather than laying out a range of alternative policy options.

The problems addressed by Congress are becoming increasingly complex. Science and technology play a crucial role in addressing problems in energy, defense, aviation and the environment. Without a permanent, non-partisan source of independent scientific and technical policy analysis, Congress become lost in the wealth of information provided by scientists, think tanks, and interest groups. The Global Climate Change Act of 2001 addresses this problem by creating a service that would provide ongoing science and technology advice to Congress, but avoid the criticisms leveled at OTA. It would economize on resources and personnel by utilizing the administrative services of the Library of Congress and the expertise of the National Research Council. Congressional requests for advice are overburdening NRC and threatening to compromise its independent stature as it is increasingly asked to fill the role of OTA. This provision would defer to NRC as the source of outside, unbiased advice and experts, but also provide an ongoing separate service to Congress. This service would also be asked to review the report of the Climate Change Action Task Force.

The Global Climate Change Act of 2001 demonstrates that the Committee on Commerce, Science and Transportation is serious about climate change, and I commend this Act to you.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 181—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN STATE OF IDAHO V. JOSEPH DANIEL HOOPER

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 181

Whereas, in the case of State of Idaho v. Joseph Daniel Hooper, C. No. CRM–01–11531, pending in the District Court of the First Judicial District of the State of Idaho, in and for the County of Kootenai, testimony has been requested from Elizabeth Kay Tucker, a former employee in the Coeur d'Alene office of Senator Larry E. Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it Resolved That Elizabeth Kay Tucker, or any other current or former employee of Senator Craig, is authorized to testify and produce documents in the case of State of Idaho v. Joseph Daniel Hooper, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Elizabeth Kay Tucker and any other current or former employee of Senator Craig's in connection with the testimony and document production authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 84—PROVIDING FOR A JOINT SESSION OF CONGRESS TO BE HELD IN NEW YORK CITY, NEW YORK

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 84

Whereas on September 11, 2001, the United States was victim to the worst terrorist attack on American soil in history, as hijacked aircraft were deliberately crashed into the World Trade Center towers in New York City and the Pentagon outside of Washington, D.C.;

Whereas the terrorist attacks on the World Trade Center towers located in New York City have resulted in the deaths of over 5,000 individuals and the destruction of both towers as well as adjacent buildings;

Whereas these attacks were by far the deadliest terrorist attacks ever launched against the United States, and by targeting symbols of American strength and success, the attacks were an attempt to violate the freedoms and liberties that have been bestowed upon all Americans;

Whereas in 1789 the first meeting of the United States House of Representatives and Senate was held in New York City; and

Whereas in this time of crisis it would be appropriate that a special one-day joint session of Congress be convened in New York City as a symbol of the Nation's solidarity with New Yorkers who epitomize the human spirit of courage, resilience, and strength: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress assemble in New York City, New York, during the One Hundred Seventh Congress at such date, time, and location as the Speaker of the House of Representatives and the President Pro Tempore of the Senate may jointly select, for the purpose of conducting such business as the Speaker and President Pro Tempore may consider appropriate.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2149. Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. SPECTER)) proposed an